

have been recognized, I think they are appropriate for public safety and public well-being. They are well understood. I believe this is an area where a case can be made clearly for the well-being of the United States of America and its people. We should accept the responsibility of protecting the one symbol that unites us, our flag.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

**REQUEST FOR POSTPONEMENT OF FURTHER CONSIDERATION OF H.J. RES. 33, CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES, AFTER GENERAL DEBATE TODAY; TO A TIME DESIGNATED BY THE SPEAKER**

MR. CANADY of Florida. Mr. Speaker, I ask unanimous consent that after debate on H.J. Res. 33, notwithstanding the operation of the previous question, it may be in order at that point for the Chair to postpone further consideration of the bill to a time designated by the Speaker on which consideration may be resumed at a time designated by the Speaker.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Florida?

Mr. WATT of North Carolina. Reserving the right to object, Mr. Speaker, let me be clear, and I do not intend to object. What I have been told is that the debate on the substitute amendment will be conducted tomorrow. I assume we are not contemplating carrying it beyond tomorrow; are we?

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. That is my understanding. We would proceed with general debate today and then conclude consideration of this bill tomorrow with the debate on the substitute amendment.

Mr. WATT of North Carolina. That is a little different than the unanimous-consent request.

I guess the only thing that leaves me a little uneasy is that this could go on, and on, and on.

Mr. CANADY of Florida. If I could address that, I believe that my objection to that would be as great or perhaps greater than the objection lodged by the gentleman from North Carolina (Mr. WATT), so I believe that it is the intention to have this bill come to a final vote tomorrow morning.

Mr. WATT of North Carolina. I wonder if the gentleman might consider revising his unanimous-consent request

to that effect, and then if it becomes necessary to go beyond tomorrow, we could come back and address that tomorrow.

I am just trying to make the record absolutely clear on this. I do not think either he or I can bind the leadership to this.

Mr. CANADY of Florida. Mr. Chairman, I will withdraw the unanimous-consent request, and we will discuss it further.

**MESSAGE FROM THE PRESIDENT**

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

**MESSAGE FROM THE SENATE**

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 775. An act to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 775) "An Act to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints from the—

Committee on Commerce, Science, and Transportation: Mr. MCCAIN, Mr. STEVENS, Mr. BURNS, Mr. GORTON, Mr. HOLLINGS, Mr. KERRY, and Mr. WYDEN;

Committee on the Judiciary: Mr. HATCH, Mr. THURMOND, and Mr. LEAHY; and

Special Committee on the Year 2000 Technology Problems: Mr. BENNETT and Mr. DODD; to be the conferees on the part of the Senate.

**APPOINTMENT OF CONFEREES ON H.R. 1554, SATELLITE COPYRIGHT, COMPETITION, AND CONSUMER PROTECTION ACT OF 1999**

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1554) to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gen-

tleman from Texas? The Chair hears none and, without objection, appoints the following conferees:

From the Committee on Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Messrs. BLILEY; TAUZIN; OXLEY; DINGELL; and MARKEY.

Provided that Mr. BOUCHER is appointed in lieu of Mr. MARKEY for consideration of sections 712(b)(1), 712(b)(2), and 712(c)(1) of the Communications Act of 1934 as added by section 104 of the House bill.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Messrs. HYDE; COBLE; GOODLATTE; CONYERS; and BERMAN.

There was no objection.

□ 1530

**POSTPONING FURTHER CONSIDERATION OF H.J. RES. 33, CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES, AFTER GENERAL DEBATE TODAY TO A TIME DESIGNATED BY THE SPEAKER**

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that after debate on H.J. Res. 33, notwithstanding the operation of the previous question, it may be in order at that point for the Chair to postpone further consideration of the bill until the following legislative day on which consideration may resume at a time designated by the Speaker.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Florida?

There was no objection.

**CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES**

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 217, I call up the joint resolution (H.J. Res 33) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 33 is as follows:

**H.J. RES. 33**

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein),*

**SECTION 1. CONSTITUTIONAL AMENDMENT.**

The following article is proposed as an amendment to the Constitution of the

United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

“ARTICLE—

“The Congress shall have power to prohibit the physical desecration of the flag of the United States.”.

The SPEAKER pro tempore. Pursuant to House Resolution 217, the joint resolution is considered as having been read for amendment.

After 2 hours of debate on the joint resolution, it shall be in order to consider an amendment in the nature of a substitute, if offered by the gentleman from Michigan (Mr. CONYERS) or his designee, which shall be considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Florida (Mr. CANADY) and the gentleman from Michigan (Mr. CONYERS) each will control 1 hour of debate on the joint resolution.

The Chair recognizes the gentleman from Florida (Mr. CANADY).

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.J.Res. 33.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 33 proposes to amend the Constitution of the United States to restore the power of Congress to protect the flag of the United States from physical desecration. An identical constitutional amendment was approved by the House in the 105th Congress and a similar measure was also approved by the House in the 104th Congress.

House Joint Resolution 33 provides simply, and I quote, the Congress shall have the power to prohibit the physical desecration of the flag of the United States. The amendment itself does not prohibit flag desecration; rather, it empowers Congress to enact legislation to prohibit the physical desecration of the flag. Subsequent legislation passed by Congress would define, within the parameters established by the constitutional amendment, what constitutes the flag of the United States and what constitutes physical desecration of the flag.

Under the amendment, such legislation would not stop anyone from expressing any idea or opinion. No one would be prevented from saying anything about the flag or anything else. Free, full, and robust debate of public issues would proceed unimpeded. The only thing that would be prohibited would be conduct involving physical acts against the flag which are de-

signed to cause the desecration of the flag.

Mr. Speaker, we are considering this amendment to the Constitution because in 1989, in the case of *Texas v. Johnson*, the Supreme Court of the United States, by a 5-to-4 margin, ruled that flag-burning is an act of expression protected by the First Amendment of the Constitution.

The Congress initially responded to the decision in *Texas v. Johnson* by passing the Flag Protection Act of 1989. This statute was specifically crafted to address concerns raised by the Supreme Court in the *Johnson* opinion. However, in 1990, the Supreme Court in *United States v. Eichmann*, another 5-to-4 decision, struck down the Flag Protection Act as inconsistent with the First Amendment. The court stated that even though the Federal statute “contains no explicit content-based limitation. . . . the Government’s asserted interest is related to the suppression of free expression.”

Based on the decisions in *Johnson* and *Eichmann*, it is apparent that the Supreme Court, as presently constituted, would find any meaningful flag protection statute unconstitutional. This reality was recognized in 1995 by Assistant Attorney General Walter Dellinger of the Office of Legal Counsel, when he wrote, and I quote, that the “Supreme Court’s decision in the *Eichmann* case, invalidating the Federal Flag Protection Act, appears to foreclose legislative efforts to protect flag burning.”

As I noted earlier, *Texas v. Johnson* was decided by the slimness of majorities and it overthrew what until then was settled law; until the *Johnson* decision, punishing flag desecration had been viewed by most as compatible with both the letter and the spirit of the First Amendment. Indeed, noted civil libertarians such as Chief Justice Earl Warren, Justice Hugo Black, and Justice Abe Fortas had unequivocally supported the legal protection of the flag.

In 1969, Justice Black wrote, and I quote: “It passes my belief that anything in the Federal Constitution bars . . . making the deliberate burning of the American flag an offense.” Chief Justice Warren said, and I quote again: “I believe that States and the Federal Government do have power to protect the flag from acts of desecration and disgrace.” Finally, Justice Fortas has expressed the view that “the flag is a special kind of personality. Its use is traditionally and universally subject to special rules and regulations. The States and the Federal Government have the power to protect the flag from acts of desecration.” This constitutional amendment which is before the House today is based on the conviction that Warren, Black, and Fortas were right, and that both the *Johnson* and the *Eichmann* cases were improperly decided.

It is well established that when speech or expressive conduct infringes

on certain conventionally protected rights and interests, the First Amendment does not provide for the speech or expressive conduct.

As Professor George Fletcher has observed, and I quote, “Several historically entrenched exceptions to the First Amendment illustrate this general thesis. Using words to defame another invades the right to a good name. . . . Making copies of another’s artistic or literary creation trenches upon copyright, the author’s property right in her work. Under circumstances, verbal insults constitute intentional infliction of emotional distress, entailing a duty to pay compensation for the injury.”

Obscenity, which undermines fundamental standards of civilized life, is recognized as outside the protection of the First Amendment. Symbolic speech or expressive conduct can also cause harm by infringing on protected rights and interests. It is essential to understand that as Professor Fletcher notes, “there are instances of conduct in which the relevant harm is not only to individuals, but to a collective sense of minimally decent behavior necessary to sustain group living.” Public nudity, public fornication, and other indecent acts may be intended to convey a particular message. The expressive element of such conduct does not, however, insulate that conduct from prescription.

Now, we all agree that the government should not attempt to suppress ideas because we happen to find them offensive or disagreeable. But as Justice Stevens said in his dissent in *Eichmann* and I quote: “It is equally well settled that certain methods of expression may be prohibited if (a) the prohibition is supported by a legitimate societal interest that is unrelated to suppression of the ideas that the speaker desires to express; (b) the prohibition does not entail any interference with the speaker’s freedom to express those ideas by other means; and (c) the interest in allowing the speaker complete freedom of choice among alternative methods of expression is less important than the societal interest supporting the prohibition.”

A prohibition on the physical desecration of the flag of the United States easily satisfies the test set forth by Justice Stevens. There is a compelling societal interest in maintaining the physical integrity of the flag as a national symbol by protecting it from acts of physical desecration. Such protection can be afforded without any interference with the right of individuals to express their ideas by other means. The interest of the American people in protecting the flag far outweighs any interest in allowing the crude and inarticulate expression involved in burning, shredding, trampling, or otherwise desecrating our flag.

Mr. Speaker, 49 of the 50 States have adopted resolutions calling upon the Congress to pass a flag protection amendment and send it back to the

States for ratification. The legislatures of these States have recognized that the desecration of our flag does harm to our collective sense of minimally decent behavior necessary to sustain our life as a Nation. The legislators of these States know, as we do, that passing another statute will not restore protection for the flag. They know that a constitutional amendment is the only means to restore the protection for the flag of the United States.

The constitutional process for amendments established by Article V recognizes that the Constitution is ultimately grounded in the will of the people. Today, we simply respond to the clear and strong message sent to us by the people speaking through the legislatures of 49 States.

The purpose of this amendment is not to change the First Amendment. There is no problem with the First Amendment. The problem is with the Supreme Court's interpretation of the First Amendment. The measure before the House today is simply designed to correct the novel and flawed interpretation of the First Amendment adopted by the court a decade ago and to restore the protection which was previously given to the flag of the United States.

Chief Justice Rehnquist in his dissent in *Texas v. Johnson*, summed up the case for protecting the flag as well as anyone. He said, "The American flag . . . throughout more than 200 years of our history, has come to be the visible symbol embodying our Nation. It does not represent the views of any particular party, and it does not represent any particular political philosophy. The flag is not simply another idea or point of view competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with an almost mystical reverence, regardless of what sort of social, political or philosophical beliefs they may have. I cannot agree," the Chief Justice said, "that the First Amendment invalidates the act of Congress and the laws of 48 of the 50 States which make criminal the public burning of the flag."

I would submit to the House that the Chief Justice of the United States had it right. As we today act under Article V of the Constitution, we in this House of Representatives should now recognize on behalf of the people of the United States that the physical desecration of the flag does not deserve the protection of the law, and we should accordingly adopt this resolution and move forward with this measure to restore protection for the flag of our Nation.

Mr. Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I want to express my gratitude to the gen-

tleman from North Carolina (Mr. WATT) for agreeing to manage this bill. He is the ranking member on the Subcommittee on the Constitution of the Committee on the Judiciary, and I appreciate the hard and continuing work he has put in on this subject matter.

I would like to join in this discussion to begin by asking the question that must be asked of all legislation that comes on the floor: What is the problem? In other words, why are we here today? When we deal with questions of civil rights, when we deal with questions of police abuse, when we deal with questions of international policy, when we deal with the crisis in Haiti, we are all brought here because there is a problem.

Does anyone know how many cases of flag-burning have occurred in this year or last year, or any of the years? Well, I am glad I asked that question, because I will provide my colleagues with the answer. The answer is that since 1990, we have had 72 reported cases of flag burning that I can bring to my colleagues' attention. I do not know of any in recent times. I think it is important that we consider in the midst of all of the issues that weigh upon the House of Representatives why this measure keeps coming back up time and time again.

The issue is really around the First Amendment and the Bill of Rights, not flag burning because the test that we will be putting the Members of this great body to is whether we have the strength to remain true to our forefather's constitutional ideals and defend our citizens' rights to express themselves, even if we disagree vehemently with their method of expression.

□ 1545

Madam Speaker, I have always deplored flag-burning as a tactic, as a strategy, as a policy. But I am strongly opposed to this attempt to amend or start the process to amend the Constitution of the United States because it simply goes against the ideals and elevates a symbol of freedom over freedom itself.

How ironic that we would now take the symbol and forget the message, the purpose which this symbol represents. For if this resolution were adopted, and thankfully it has never been finally processed out of the legislative system, it would represent the first time in our Nation's history that the people's representatives in this House voted to alter the Bill of Rights to limit the freedom of speech of our citizens.

So what we are considering here, notwithstanding the explanations that it is very popular to do this, is that we are saying that now, in the year 1999, over 200 years after the Bill of Rights, we have now decided that there was a flaw in the Bill of Rights and we now need to make a change. There was a mistake.

I resist that argument, and it would seem to me that if we were going to

alter the Bill of Rights, it would have to be over a measure far, far more grave and threatening than merely the conduct, one particular form of conduct that we might resent.

What about burning the Bible? Does that not raise Members' temper a few degrees? How obscene it would be to burn a Bible publicly. Of course, someone might say, well, sure, we ought to include that, too, or we ought to look at that next. But these acts, as despicable as they are, are protected speech under the First Amendment.

So I would say to the Members that the true test of any Nation's commitment to freedom, to this freedom of expression, lies in the inability to protect unpopular expression, the kinds of things, the conduct that we do not like, exactly like flag-burning and Bible-burning.

Remember what Justice Oliver Wendell Holmes stated: "The Constitution protects not only freedom for the thought and expression we agree with, but freedom for the thought we hate, the conduct and action we seriously dislike."

So what we are really doing is saying that since this is such a repulsive act, we are going to take it out from under the protection of the Bill of Rights, from the First Amendment. So by limiting the free speech protections and the First Amendment, I suggest we are setting the most dangerous precedent that has ever come out of the Subcommittee on the Constitution in the Committee on the Judiciary.

If we open the doors to criminalizing constitutionally protected expression related to the flag, I am afraid that there will be further efforts to limit and censor speech or conduct that we do not like.

We do not like it, we do not like flag-burning. That is why we want to stop it. But guess what, there are some other things that we do not like and we may want to start curbing just as well. Once we decide to limit freedom of speech in any respect from a constitutional point of view, the limitations on freedom of the press and limitations on freedom of religion may not be far behind. This is not a road that I would like to go down.

The courts have ruled. The ultimately deciders of what is constitutional, they have said that. They have said that flag-burning, as despicable as it is, is protected freedom of speech.

So it is tempting for us, the only people in government that have the power, to say we will show the court who is boss, we will show that Supreme Court. We will amend the Constitution to outlaw flag-burning. We will pass this amendment through the States, and then they will not be able to write any more decisions about this conduct that we dislike so much.

However, if we do, we will be carving an awkward exception into the document designed to last for the ages, and that with only 27 amendments, has

never been modified. We will be undermining the very constitutional structure that Thomas Jefferson and James Madison designed to protect our rights.

In effect, we will be glorifying the very people in our national community who disrespect the flag and what it stands for while we will be denigrating the constitutional vision of James Madison and Thomas Jefferson.

The concern about the tyranny of the majority led the Framers to create an independent judiciary, free of political pressure, to ensure that the legislative and executive branches would honor the Bill of Rights. A constitutional amendment like this banning flag desecration flies in the very face of this carefully balanced structure.

Madison warned against using the amendment process to correct every perceived constitutional defect. I repeat that warning here, because it applies to what we are considering, particularly concerning issues which easily inflame public passion.

Unfortunately, there is no better illustration of Madison's concern than this proposed flag-burning or anti-flag-burning amendment. History has proved that efforts to legislate respect for the flag only serve to increase flag-related protests, as few as they are, and a constitutional amendment would be far more inflammatory than even a statute.

Almost as significant as the damage this resolution would do to our own Constitution is the harm it would inflict upon our international standing in the area of human rights. Consider the demonstrators who ripped apart Communist flags before the fall of the Iron Curtain and committed crimes against their country. Yet, freedom-loving Americans applauded their brave actions.

If we pass this amendment, we will be beginning to align ourselves with autocratic regimes such as those in Iran and the former South Africa, and diminish our own moral stature as a protector of freedom in all its forms. Let us not do it.

For those who believe a constitutional amendment will honor the flag, I just want to read them the two sentences from the Supreme Court's 1989 decision on the subject, Texas and Johnson: "The way to preserve the flag's special role is not to punish those who feel differently about these matters. It is to persuade them that they are wrong. We can imagine no more appropriate response to burning a flag than waving one's own; no better way to counter a flag-burner's message than to salute the flag. We do not consecrate the flag by punishing its desecration. For in doing so, we dilute the freedom that this cherished emblem represents."

Madam Speaker, I close with only one additional comment. That is, as soon as the polls that are taken on this subject let our citizens know that this would be the first time in our Nation's history to cut back the First Amend-

ment freedoms of speech and expression, then, guess what happens? They do not support the flag-burning proposal.

So please join with those of us who are patriots in a perhaps deeper sense, who really believe that protecting freedom of speech includes the kind we abhor, the kinds we like least, the kinds that we detest. Join me in opposing this flag desecration amendment.

Madam Speaker, I thank the ranking member of the subcommittee who is now managing the bill.

Madam Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. CUNNINGHAM), the chief sponsor of this amendment.

Mr. CUNNINGHAM. Madam Speaker, I thank my colleagues for their views, but I would say, Madam Speaker, 85 percent of the American people feel those views are wrong, they are absolutely wrong, and 49 States have asked us to pass this, and 49 legislatures have asked us to pass this amendment.

We have passed this on the House floor by over 300 votes every time it comes up. Unfortunately, the Senate has not reacted in one case, and in 1997 the Senate did not have time to take it up. This is the first time that we can.

I would say to my friend, whose 85 percent of the American people do not give a rat's rear how many times flag-burning has existed, I ask Members to give themselves a vision, Iwo Jima, and the men, Ira Hayes and the rest of them that put up that American flag. Now allow some hippie to go up there and burn it. They do not care how many times. It is the issue.

Madam Speaker, my colleague brings fear into this, fear that we are doing something. Well, this country ran fine for 200 years-plus until one liberal Supreme Court said no to 200 years of tradition. Forty-eight States have laws to protect the American flag. Is that radical, that 48 States believed that the First Amendment is not abridged, that the First Amendment is not abridged, it is expressive conduct, and the Supreme Court has ruled on that?

There are more Supreme Court Justices in history that have said that this amendment is in line and should be passed than there are of the five that ruled against this in 1989. And we say that that is wrong.

My colleague, the gentleman from California (Mr. BILBRAY) does not care how many times. The flag in his office was draped over his father's coffin. He has that flag in his office today.

I would tell my colleague that if he cringed at people burning the Communist flag, I cheered. My mother and father were Democrats. They voted for Ronald Reagan, but they were Democrats. They taught my brother and I that the lowest thing on Earth is a socialist and a Communist. So if Members want to burn the Communist flag, be my guest. My mom and dad are Democrats. I lost my dad.

I would tell my colleagues, they say that this is despicable to burn the American flag. Yet they would allow it to happen. The 85 percent of the American people that support this, and we will pass this bill, I say to the Members in the minority view, and who will remain so, we are going to pass this in the House, we are going to pass this in the Senate, and 49 States have vowed to ratify it. All that does is it gives Congress the right to proceed.

□ 1600

It is not a self-enacting bill. The 48 States have got to react to what they believe. I believe in States rights.

So I would say to my colleagues, if one thinks something is despicable, change it. If one wants to spread fear, fear of 200 years of tradition, it is okay by 85 percent of the American people.

Mr. WATT of North Carolina. Madam Speaker, I yield as much time as he may consume to the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Madam Speaker, our Founding Fathers must be very puzzled looking down on us today. Instead of seeing us dealing with the very real challenges that face our Nation, they see us laboring under this compulsion to amend the document that underpins our democracy.

They see a house of dwarfs trying to give this government a great new power at the expense of the people, the power for the first time to stifle dissent.

The threat must be great, they must be saying, to justify changing the Bill of Rights and, for the first time, decreasing rather than increasing the rights of the people. They see their beloved Bill of Rights being eroded into the Bill of Rights and Restrictions.

What is the threat? What is the threat? Madam Speaker, I ask again, what is the threat? Is our democracy at risk? What is the crisis to the Republic? What is the challenge to our way of life? Where is our belief system being threatened? Are people jumping from behind parked cars, waving burning flags at us, trying to prevent us from getting to work and causing America to grind to a halt?

Do we really believe that we are under such a siege because of a few loose cannons? Do we need to change our Constitution to save our democracy? Or, Madam Speaker, are we offended?

The real threat to our society is not the occasional burning of a flag, but the permanent banning of the burners. The real threat is that some of us have now mistaken the flag for a religious icon to be worshipped as pagans would, rather than to keep it as the beloved symbol of our freedom that is to be cherished.

These rare but vile acts of desecration that have been cited by those who would propose changing our founding document do not threaten anybody. If a jerk burns a flag, America is not threatened. If a jerk burns a flag, democracy is not under siege. If a jerk

burns a flag, freedom is not at risk and we are not threatened. My colleagues, we are offended. To change our Constitution because someone offends us is in itself unconscionable.

The Nazis, Madam Speaker, the Nazis and the fascists and the imperial Japanese army combined could not diminish the rights of even one single American. Yet, in an act of cowardice, Madam Speaker, we are about to do what they could not.

Where are the patriots? Where are the patriots? Where are the patriots? Whatever happened to fighting to the death for somebody's right to disagree? We now choose, instead, to react by taking away the right to protest. Even a despicable low-life malcontent has a right to disagree, and he has a right to disagree in an obnoxious fashion if he wishes. That is the true test of free expression, and we are about to fail that test.

Real patriots choose freedom over symbolism. That is the ultimate contest between substance and form. Why does the flag need protecting? Is it an endangered species? Burning one flag or burning 1,000 flags does not endanger it. It is a symbol. But change just one word of our Constitution of this great Nation, and it and we will never be the same.

We cannot destroy a symbol. Yes, people have burnt the flag, but, Madam Speaker, there it is again right in back of the Speaker's chair. It goes on. It cannot be destroyed. It represents our beliefs.

Now poets and patriots will tell us that men have died for the flag. But that language itself, Madam Speaker, that language itself is symbolic. People do not die for symbols. They fight and die for freedom. They fight and die for democracy. They fight and die for values. They fight and die for the flag means to fight and die for the cause in which we believe. My colleagues would have us change that.

We love and we honor and respect our flag for that which it represents. It is different from all other flags. I notice in the amendment that we do not make it illegal to burn some other country's flags, and that is because our flag is different. No, it is not because of the colors or the shape or the design. They are all relatively the same.

Our flag is unique, because it represents our unique values. It represents tolerance for dissent. This country was founded by dissenters that others found to be obnoxious.

What is a dissenter? In this case, it is a social protester who feels so strongly about an issue that he would stoop so low as to try to get under our skin, to try to rile us up, to prove his point, and to have us react by making this great Nation less than it was.

How do we react? Dictators and dictatorships make political prisoners out of those who burn their Nation's flags, not democracies. We tolerate dissent and dissenters, even the despicable dissenters.

What is the flag, Madam Speaker? The American flag? Yes, it is a piece of cloth. It is red and white and blue, and it has 50 stars and 13 stripes. But if we pass this amendment and desecrators decide to go into a cottage industry and make flags with 55 stars and burn them, will we rush to the floor to amend our Constitution again?

If they add a stripe or two and set it ablaze, it surely looks like our flag, but is it? Do we rush in and count the stripes before determining whether or not we are constitutionally offended? What if the stripes are orange instead of red? How do we interrupt that? What mischief do we do here? If it is a full-size color picture of a flag they burn, is it a crime to desecrate a symbol of a symbol? What are we doing?

Our beloved flag represents this great Nation, Madam Speaker. We love our flag. Because there is a Republic for which it stands, made great by a Constitution that we want to protect, a Constitution given to our care by giants and about to be nibbled to death by dwarfs.

Madam Speaker, I call upon the patriots of the House to rise and defend the Constitution, resist the temptation to drape ourselves in the flag, and hold sacred the Bill of Rights. Defend our Constitution. Defeat this amendment.

Mr. CANADY of Florida. Madam Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SWEENEY).

Mr. SWEENEY. Madam Speaker, I thank the gentleman from Florida (Mr. CANADY) for yielding me this time. I want to start by commending the gentleman from California (Mr. CUNNINGHAM) for his diligent hard work on this amendment and to help carry the good work brought forward by my predecessor, Gerald Solomon.

Madam Speaker, I rise today as one of the lead cosponsors and supporters of this constitutional amendment. There are many reasons to do so. As we know, there is a deeply reserved desire by many Americans to protect the flag because they recognize that the American flag holds a sacred place in their hearts.

Prior speakers spoke of the flag serving as a mere symbol. He said that this country was founded by dissenters. I would like to say that it was not founded just by dissenters, it was founded by dissenters who risked their lives, their blood, who took action because it requires action to provide freedom. They did so for their flag.

I would also like the prior speaker and those who would dissent here to consider that the Medal of Honor is specifically awarded to those who have fought for their flag and on its behalf.

I take very personally the issue. I recall a year ago my own father, a veteran of World War II, passed away. Prior to his passing, one of his great concerns was that the flag that is bestowed upon veterans by our country for their service be provided at his wake, be shown at his wake in the

most meaningful way. If it means nothing, then why does one have, as their last thoughts, thoughts of the flag? If it means nothing, then tell that to those who go to war and march behind it. If it means nothing, then those who have gone and given their lives and made the ultimate sacrifice have done so because of the flag.

Further, I believe that, as an elected public official, it is our duty to represent the views of an overwhelming majority of Americans who want us to restore to them the power to prohibit the physical desecration of our flag.

Madam Speaker, as citizens of the United States, we are concerned with protecting individual rights. We fight to protect our freedom of religion. We fight to protect our freedom of assembly. Essentially, we protect our right to live as free citizens.

So, Madam Speaker, why would anybody find fault with protecting the very symbol of that freedom. Here, in Congress, we are here to pass laws to protect and rename old buildings, and laws to protect citizens from creditors, and laws to protect citizens from predators. We do these things for the right reasons and good reasons. Can we not do the same for the very symbol of what is right and good and just in our Nation?

Every Member of Congress takes the time to have his or her picture taken with the flag of the United States as a backdrop. Every Member of Congress takes the time to march in parades with our flag. Every Member of Congress takes the time to present the American flag to groups of constituents back in their district. Why? Is it because this is just some sort of studio prop? No. It is because the flag is a symbol that everyone understands and respects.

Madam Speaker, we cannot use the flag of the United States as a prop and then fail to protect it and what it stands for. We cannot, we should not, we must not cave in to intellectual snobbery. Being patriotic and sharing a deep love for the American flag is not politically incorrect. So let us stop acting like we are all too smart to be patriotic.

Madam Speaker, some of my colleagues will argue today that this amendment would infringe on the individual right to free speech. The right to free speech is the bedrock of America's founding. I will be the first to passionately defend the First Amendment. But burning an American flag is not free speech. It is inexcusable conduct that must be condemned. We should not protect such reprehensible behavior any more than we should protect arsonists and vandals.

Madam Speaker, I am not alone in this argument. There are many people far more distinguished than I who believe that flag burning does not deserve to be a constitutionally protected form of speech.

As the gentleman from California (Mr. CUNNINGHAM) has pointed out,

nearly 10 years ago to this very day the Supreme Court ruled that flag burning was an act of free expression by the slimmest margins, one vote. In that case, the four dissenters based their opposition on the fact that flag desecration is expressive conduct as distinguished from actual speech.

□ 1615

In this regard they stated that the government's interest in preserving the value of the flag is unrelated to the suppression of ideas that flag burners are trying to suppress.

Madam Speaker, let me finish by quoting Harvard law professor Richard D. Parker. Mr. Parker is a self-proclaimed liberal Democrat who has spoken so eloquently in support of this amendment in the past. He said, "The American flag doesn't stand for one government or one party or one party platform. Instead, it stands for an aspiration to national unity despite, and transcending, our differences and diversity. A robust system of free speech depends, after all, on maintaining a sense of community. It depends on some agreement that, despite our differences, we are 'one'; that the problem of any American is 'our' problem. It is thus for minority and unpopular viewpoints that the aspiration to and respect for the unique symbol of national unity is thus most important."

Madam Speaker, I move to protect that symbol of unity, and I urge all of my colleagues to vote in support of this resolution.

Mr. WATT of North Carolina. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I have yielded time to several people, and I want to thank them for debating this issue. I wanted to accommodate their schedules, but now I want to kind of set the framework for this debate a little bit.

I want to thank my colleagues, the gentleman from Florida (Mr. CANADY) and the gentleman from California (Mr. CUNNINGHAM), for already during the debate on the rule and the debate on the bill making it clear that this is not about one side being patriotic and the other side being unpatriotic. I do not think there is a single Member of the Congress of the United States that I would dare call unpatriotic. We all are patriots. We all believe in our country. This is an honest dispute about how we reflect that patriotism.

The gentleman from Florida (Mr. CANADY) has gone out of his way, particularly this year, to set a framework for us to have this debate in a way that we can honor each other and honor our differences on this issue. And I was never more proud of the process than I was at the hearing that we had on this proposed constitutional amendment when I saw my colleagues, the gentleman from California (Mr. CUNNINGHAM), a decorated hero, and the gentleman from Maryland (Mr. GILCREST), a Republican also and a decorated hero, on opposite sides of this important issue.

This is not about one side being patriotic and the other side being unpatriotic. And I hope that throughout the course of this debate today and tomorrow my colleagues will keep that fact in mind and not stoop to calling one side unpatriotic or not make this about who is patriotic. This is not about that.

I want to correct my good friend, the gentleman from California (Mr. CUNNINGHAM), who earlier in the debate suggested that this was about liberals versus conservatives. It is not about that either, Madam Speaker. If we look at the lineup of the members of the Supreme Court who decided this issue we will not find the liberals lined up on one side of the issue and the conservatives lined up on the other side of the issue.

The members who joined in the opinion to declare the burning of the flag a protected expression under the first amendment were Justices Brennan, Marshall, Blackmun, Scalia and Kennedy. Three of those five justices were Republican justices, Republican appointees, to the court. And I do not think there is anybody who is running around these days saying that Justice Scalia is a liberal.

So this is not about liberals versus conservatives. It is about how we believe the First Amendment protects us, and what expressions we believe ought to be protected, and how we play out our own patriotism.

Now, I want to acknowledge that the very first time I came to the Congress of the United States and debated this amendment I did not believe what I just said. I was one of those people who came to the Congress saying I do not know how anybody who supports the Constitution of the United States could not believe that the First Amendment to the Constitution is protective of somebody who expresses themselves by burning the flag.

But over the last four sessions of Congress, and this is the fourth time we will have debated this issue in the four terms that I have been in the Congress of the United States, what I have started to do is I have started to listen to my colleagues, like the gentleman from California (Mr. CUNNINGHAM) and the gentleman from Florida (Mr. CANADY), who are on the opposite side of this issue. What I have seen is that people on our side of this issue have started to listen to the other side, and I have heard them start to listen to us. And where we are today is a product of listening to each other, because we now understand that a patriot like the gentleman from California (Mr. CUNNINGHAM) can disagree with a patriot like the gentleman from Maryland (Mr. GILCREST) on this important issue. This is not about who is patriotic.

We are going to recognize today that anybody who comes to this well, Republican or Democrat, regardless of which side of this issue they are on, is going to be recognized to engage in the debate. We are not censoring anybody.

If somebody wants some time, I welcome them to come and state their position on this proposed constitutional amendment.

So this is not about patriotism, it is not about liberal versus conservative, it is not about Republican versus Democrat. It is about how we learned what the first amendment was about, and how we learned what patriotism was about, and what we think the Constitution protects, and what we think ought to be unprotected by the Constitution. That is what this debate will be about.

So I want to right here welcome and encourage my colleagues to come to the floor, debate this important proposal, tell us what their experiences have been with the first amendment and how it gets applied to them. I invite my colleagues to tell us what their experiences have been regarding patriotism, and tell us what their experiences have been regarding liberty and honoring the liberties that we have in this country. And if my colleagues come to the floor and engage in the debate with that attitude, this will be one of the most powerful debates ever conducted on the floor of the House.

I want people to come and debate this important issue, and I want them to bring their stories. I want to start by telling my colleagues my story.

I went to law school, and some people say it is the best law school in the country, although I am sure we could generate a serious amount of debate on that.

Mr. CANADY of Florida. Madam Speaker, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Madam Speaker, I would agree with the gentleman on that.

Mr. WATT of North Carolina. Madam Speaker, reclaiming my time, I thought the gentleman was going to spring up, because we went to the same law school. So it is even about people from the same law school disagreeing on this, as my colleagues will see.

I thought I knew the Constitution. I had studied it. By the time I got to the third year of law school, I thought nobody could teach me anything else. And then I went into the practice of law in a small law firm that was known for its civil rights reputation.

One day I got a call from my senior law partner and he asked me to go down to another county and represent some people who had been charged with disturbing the peace and resisting arrest and various and sundry other offenses that people get charged with when they engage in demonstrations, and I said, fine.

So I went traipsing off to the next county, and what I found when I started to investigate was that a group of Native Americans, with tomahawks and other such kinds of instruments, had gathered in front of a school to demonstrate and to express their position on an issue. And I kept inquiring about what the issue was, and I found

that those Native Americans were there demonstrating because they did not want to go to school with black students. They did not want their children to go to school with black students.

Well, I was black then, I am still black, and I said to myself, now, I do not know if I want to be here representing these people who are demonstrating against going to school with black kids. And I called up my senior law partner and I said, "Julius, why did you send me down here to represent these people knowing what they were demonstrating about?" And he asked me one simple question. He said, "Do you not believe in the first amendment to the Constitution?" It stopped me dead in my tracks.

I will never ever forget that question that my senior law partner asked me on that occasion. It brought home to me, after all the education I had gotten about what the first amendment meant, the book learning, what the first amendment was really about. It is about tolerating the views and defending the rights of people to express those views even if they disagree with the views we hold.

□ 1630

That is what our First Amendment is all about. It did not come as any surprise to me later in my legal practice to find that my law firm went to represent the Ku Klux Klan. There was not a single person in my law firm who believed in anything that the Ku Klux Klan stood for. But when it came time to defend their right to demonstrate and express themselves, we were right in court there saying we may not agree with the ideas they express, but we will defend until the end their right to express them.

I am not here today, my colleagues, to defend people who burn the flag. I abhor flag burners. But I am here to defend the Constitution of the United States. I am here to defend the First Amendment. I am here to defend the freedom of expression. I am here to defend the right of people who have views that are contrary to mine to express those views and to be heard in a democracy that we call America.

I believe that is what the First Amendment and our Bill of Rights is about. The Bill of Rights was not put in place by the majority to protect the majority. It was put in place to protect the minority from the tyranny of the majority. And when we diminish that, we diminish our constitutional government.

Now, my colleagues are going to be put in this debate to a clear choice. I want to applaud the Committee on Rules, I do not get to do that very often, for giving us the opportunity to exercise that clear choice. Because the underlying proposed amendment to the Constitution of the United States that my friend and colleague from Yale University also supports reads like this. It says, "The Congress shall have power

to prohibit the physical desecration of the flag of the United States."

My colleague says he does not object to the First Amendment, he objects to the Supreme Court's interpretation of the First Amendment. That is one choice that we all have to vote on the amendment that has been proposed by my colleague the gentleman from Florida (Mr. CANADY). We are going to have an opportunity tomorrow to vote on an alternative. It is an alternative that I will offer to this House to be voted on, and it reads like this. It says, "Not inconsistent with the First Article of Amendment to this Constitution, the Congress shall have power to prohibit the physical desecration of the flag of the United States."

So if they believe that the First Amendment is sacred, if they are honoring the First Amendment, if they believe that this new guy on the block, the new proposed amendment, is important but they want it to be interpreted subordinate and in conformity with the First Amendment to the Constitution that is currently on the books, I am going to ask my colleagues to vote for the substitute, then, because I believe in the First Amendment.

Now, I am not going to say that those who believe that the First Amendment is different than my interpretation of it are not patriots. I would not dare call my good colleague the gentleman from California (Mr. CUNNINGHAM) unpatriotic. I have seen him. He is a wonderful patriot. But I submit to this body that we must not put in the Constitution an amendment that we believe to be at odds with the First Amendment. And if we do, we must make it clear that the First Amendment is to be the ruling amendment in our Constitution. It has served us for over 200 years, and it will continue to serve us. But it will do so only if we allow it.

Madam Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I will just speak briefly. I want to express my appreciation to the gentleman from North Carolina (Mr. WATT) for the spirit in which he has approached this debate concerning this constitutional amendment throughout the process, from the subcommittee hearing through the subcommittee markup, full committee markup, and now on the floor today.

I believe that the gentleman from North Carolina (Mr. WATT) is exactly right when he says that no one should question the patriotism of anyone who might take a differing viewpoint on this particular issue. I understand that those who are opposed to this amendment base their opposition on principles that they hold very dear. This is the sort of issue which tends to engender passionate feelings. And I respect that.

I just again want to express my gratitude to the gentleman from North

Carolina (Mr. WATT) for approaching this issue and dealing with it on the merits rather than on the basis of an attack on the motivations or the patriotism of those who have a differing viewpoint.

Madam Speaker, I yield 1½ minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Madam Speaker, I would say to my colleague that if he thinks he was opposed to the Ku Klux Klan, my opposition was to those that protested in a war that many of my friends lost their lives, but yet I would fight for the right for them to protest.

Many of us felt that the Tom Haydens, the Jane Fondas, and the Bill Clintons went too far by protesting in the enemy's camp. That was different. But I would also say that 90 percent, 90 percent, of the Supreme Court justices through history have supported this amendment. It was only one Supreme Court in 1989, the same Supreme Court that in 1990 by one vote overrode 200 years of tradition.

That is why 85 percent of the American people, 120 organizations, say that this is the correct thing to do and disagree with my colleagues on the other side of this issue. They also support the First Amendment.

When I went into the camps of those anti-war protesters and sat down with them, disagreed with them, I supported their First Amendment rights to do that. In this amendment, it does not take away from those rights. This particular amendment does not enfranchise the First Amendment. They still have full ability to speak, to express themselves in any legal way outside of the desecration of the American flag.

Forty-eight States had this prior to that one Supreme Court vote. It is wrong, Madam Speaker.

Mr. CANADY of Florida. Madam Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Madam Speaker, I thank my colleague for yielding me the time.

Madam Speaker, I rise in strong support of House Joint Resolution 33.

First I would like to agree with my colleague the gentleman from North Carolina (Mr. WATT) that what we should hear today and I believe what we are going to hear today is a series of speakers on both sides talking about their personal experiences and what all of the issues arising from this mean to us. I think that is appropriate. That is a good debate for us all to have.

We have heard from my good friend and colleague the gentleman from New York (Mr. SWEENEY) about how much this means to him and to his family. My story is more brief but I think sheds light on my own view.

I am the first native born American in my family. My parents were immigrants. They came to this country as so many other immigrants do, even today, because they want for their children the freedoms and opportunities that this country offers, more importantly what this country should offer.



My parents were not born American. That means that they had to affirmatively choose to take up the values and the principles and the ideals that are the foundation of our citizenship. They did so gladly and they did so naturally. I sometimes think that those Americans who had to choose to be American, that had to take that affirmative step, perhaps they have a greater appreciation for what this country offers.

At an early age, my parents taught me respect for our Nation, her leaders, and her most distinct symbol, Old Glory. I learned that from an early age. But I have to admit, Madam Speaker, I never really appreciated just how important the flag was as a symbol until I left this country, until I lived and worked overseas in a land where there was no Declaration of Independence, there was no Bill of Rights, the sort of wonderful document that we are all talking about and debating and interpreting today.

As my wife Sue and I traveled around East Africa is where we were, every time we saw Old Glory, whether it be at embassies or at private homes, our spirits were lifted by what it symbolized not just for us but for the rest of the world, nations and people struggling to be free. If we fail to protect the flag, that symbol both here and abroad is tarnished. And I submit to my colleagues, each time the flag suffers physically, our stature in the eyes of the world suffers just as clearly.

If we fail to protect the flag, people around the world may believe that we do not care, that we have become tired or complacent or self-doubting. The flag is a symbol. But in a time where the eyes of the world are upon us, symbols matter; and no symbol matters more than our flag. Our constituents are not complacent. Our constituents care. Every survey ever done tells us that. They want to protect the flag. So should we.

Finally, I think part of the debate is going to be what the First Amendment means today. And I think it is easy to draw lines between action and thought and expression. We have done so in the past. We have created hate crime laws. We do have laws for destruction of symbols like gravestones and synagogues and churches. We have done that.

I urge us all today, as we go through this debate, to follow the principles and respect what my colleague has suggested and support this House resolution.

Mr. WATT of North Carolina. Madam Speaker, I yield 4 minutes to the gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I rise in opposition to this amendment. I have myself served 5 years in the military, and I have great respect for the symbol of

our freedom. I salute the flag, and I pledge to the flag. But I served my country to protect our freedoms and to protect our Constitution. I believe very sincerely that today we are undermining to some degree that freedom that we have had all these many years.

We have not had a law against flag desecration in the 212 years of our constitutional history. So I do not see where it is necessary. We have some misfits on occasion burn the flag, which we all despise. But to now change the ability for some people to express themselves and to challenge the First Amendment, I think we should not do this carelessly.

□ 1645

Let me just emphasize how the first amendment is written. "Congress shall write no law." That was the spirit of our Nation at that time. "Congress shall write no laws."

We have written a lot of laws since then. But every time we write a law to enforce a law, we imply that somebody has to arrive with a gun, because if you desecrate the flag, you have to punish that person. So how do you do that? You send an agent of the government to arrest him and it is done with a gun. This is in many ways patriotism with a gun. So if you are not a patriot, you are assumed not to be a patriot and you are doing this, we will send somebody to arrest them.

It is assumed that many in the military who fought, but I think the gentleman from North Carolina pointed out aptly that some who have been great heroes in war can be on either side of this issue. I would like to read a quote from a past national commander of the American Legion, Keith Kreul. He said:

Our Nation was not founded on devotion to symbolic idols, but on principles, beliefs and ideals expressed in the Constitution and its Bill of Rights. American veterans who have protected our banner in battle have not done so to protect a golden calf. Instead, they carried the banner forward with reverence for what it represents, our beliefs and freedom for all. Therein lies the beauty of our flag. A patriot cannot be created by legislation.

I think that is what we are trying to do. Out of our frustration and exasperation and our feeling of helplessness when we see this happen, we feel like we must do something. But I think most of the time when we see flag burning on television, it is not by American citizens, it is done too often by foreigners who have strong objection to what we do overseas. That is when I see it on television and that is when I get rather annoyed.

I want to emphasize once again that one of the very first laws that Red China passed on Hong Kong was to make flag burning illegal. The very first law by Red China on Hong Kong was to make sure they had a law on the books like this. Since that time they have prosecuted some individuals. Our State Department tallies this, keeps records of this as a human rights violation, that if they burn the flag, they

are violating human rights. Our State Department reports it to our Congress as they did in April of this year and those violations are used against Red China in the argument that they should not gain most-favored-nation status. There is just a bit of hypocrisy here, if they think that this law will do so much good and yet we are so critical of it when Red China does it.

We must be interested in the spirit of our Constitution. We must be interested in the principles of liberty. We should not be careless in accepting this approach to enforce a sense of patriotism.

Mr. GOODLATTE. Madam Speaker, I yield 15 seconds to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. I would address my colleague that just spoke in the well. Is it not true that the gentleman votes "no" on over 90 percent of the issues and finds reason not to vote for issues on this House floor? Is that true?

Mr. PAUL. If the gentleman will yield, I think that is correct, because probably 90 percent of the time, this Congress is doing things that are not constitutional, and I think they are very legitimate.

Mr. CUNNINGHAM. My point is made. I thank the gentleman.

Mr. GOODLATTE. Madam Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Madam Speaker, I want to share with Members some words written by a third grader:

"I feel so proud whenever I see my country's flag flying over me. The red's so bold the white's so clear the brightness of the blue is all so dear. I love my country my family, too, but most of all I love the red, white and blue."

Madam Speaker, these words were written because this child was allowed to value our flag, to understand the importance of the symbolism embodied in our flag and its importance in representing the values of our country.

Madam Speaker, the child who wrote these words, Carolyn Holmes, is grown now. She still values this country. She still values our flag. Madam Speaker, we must teach our children values.

If we allow the desecration of our flag, we allow those who desecrate it to teach our children a values lesson which may yield bitter fruit.

Madam Speaker, this issue is important. We worry about how to help our children learn the basic values for a civil society. Respect is one of the most important of these. Children need to be taught respect. Respect for the flag seems a very good place to begin. Let it spread from there to respect for others and their ideas.

It is important to remember here that it takes the States to ratify what we do and it takes the voice of the people in those States. So let the people speak. Let them speak.

Madam Speaker, the flag desecration amendment should be passed.



Mr. GOODLATTE. Madam Speaker, I yield 3 minutes to the distinguished gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Madam Speaker, I rise today in strong support of House Joint Resolution 33, and I commend the gentleman from California for bringing this forward.

Madam Speaker, it was on June 14, 1777, that the Continental Congress passed the first Flag Act, calling for the symbol of the United States of America to bear its Stars and Stripes.

Over the years, the flag has grown to become a symbol of freedom and a faithful tribute to those, living and deceased, who have fought to protect and preserve peace both here and abroad.

Madam Speaker, we stand and pledge our allegiance to the flag every day, but it is our United States soldiers who salute and serve beneath the flag who truly bear the burden of ultimate allegiance. They sacrifice their lives to protect our freedom and our liberty.

Madam Speaker, I want to share with Members a poem by Father Denis Edward O'Brien, United States Marine Corps, that shows the special relationship our soldiers have with the flag of the United States. I quote Father O'Brien:

It is the soldier, not the reporter,  
who has given us freedom of the press.

It is the soldier, not the poet,  
who has given us freedom of speech.

It is the soldier, not the campus organizer,  
who has given us the freedom to demonstrate.

It is the soldier  
who salutes the flag,  
who serves beneath the flag,  
and whose coffin is draped by the flag  
who allows the protester to burn the flag.

Madam Speaker, when we allow our flag, the very essence of our country, to be destroyed, in my opinion we dishonor the men and women who gave their lives serving under that flag so that every one of us could live free.

I know, Madam Speaker, that many of my colleagues will raise important constitutional questions about adding an amendment to protect the flag. But when it comes down to it as a representative of the people, I believe that we have the support from the majority of the American people on this issue.

Madam Speaker, I have had the honor of serving the citizens of the Third District of North Carolina for 5 years. I can say with absolute honesty that I have never personally spoken with any citizen on this issue who did not express support for congressional action to protect and preserve the integrity of the United States flag.

With many of our United States veterans and a majority of the American people backing this measure, it has my full and absolute support.

Madam Speaker, I hope this House will support House Joint Resolution 33.

Mr. CANADY of Florida. Madam Speaker, I yield 2½ minutes to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. I thank the gentleman for yielding me this time.

Madam Speaker, I rise in strong support of the constitutional amendment to protect the American flag. I want to commend the gentleman from California (Mr. CUNNINGHAM) for bringing this forward. His leadership is important in this because of his background. But I also want to relate to the American people how I feel that they feel about why Congress should be called upon to enact a flag protection amendment. They have done this ever since 1989 when the Supreme Court did the decision-making as to burning or desecrating the flag. The storm of protest coming from the American people since that time, I think, has been consistent.

While public opinion on most issues tends to be volatile, every reliable survey, every single one that they have conducted on this issue over the last 10 years indicates, shows clearly, that 75 percent or better of the American people believe it should be illegal to burn, trample or destroy Old Glory. They tell me it is illegal to burn trash, but we can burn the flag. It is illegal to destroy Federal property, even a mailbox. But it is okay to destroy the flag.

This indicates that while Americans hold their first amendment rights dear to their hearts, they also understand that our flag should be honored and protected against senseless acts of vandalism. People can still express their views without resorting to vandalism.

Madam Speaker, the American flag is not just a piece of cloth. It is a symbol that reflects the values, the struggles and the storied history of our great country.

I urge my colleagues, those that oppose this amendment, to rethink exactly what the flag means to the American people, those who protest what has taken place, what took place in 1989. I would urge everyone to defend the principles that it embodies by voting for this very important amendment to the Constitution.

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. I thank the gentleman for yielding me this time.

Madam Speaker, today the House has this opportunity to make an important statement on behalf of all of us and on behalf of every soldier who has fought and died for the principles upon which our Nation was founded. I commend the gentleman from California (Mr. CUNNINGHAM) for introducing this important legislation and the gentleman from Illinois (Mr. HYDE) for bringing this measure to the floor.

I have long been a strong supporter of prohibiting the desecration of our Nation's flag, and I have served and fought to protect the freedoms of our Nation, freedoms represented by our flag, to people throughout the world.

Although opponents of this measure contend that this amendment infringes

upon the freedom of speech, to that I take exception. While we defend the right of any person, no matter how misguided, to argue against the principles for which our Nation stands, we should not contend that destroying our flag is in any sense such an argument.

Our flag has been a citadel of freedom and a beacon of hope to the world. It has stood with our courageous servicemen and women in two world wars, in Korea, Vietnam, in Panama, Grenada, Kuwait, Bosnia and more recently Yugoslavia, and anywhere that Americans have fought and died to oppose oppression. Our flag represents everything good about our Nation and its desecration stands as an insult to every American.

Our flag symbolizes our Nation's great history. Within that field of stars and stripes stands the devotion of countless numbers of citizens who have loved and honored the principles of freedom and justice.

In this city of many monuments representing our Nation's pride, honor and history, let us take this opportunity to protect the greatest monument of them all, our flag, the flag of the United States of America. It is proudly displayed as a monument in virtually every courthouse, every school, library, city, town and village throughout our Nation.

In closing, Madam Speaker, and in urging my colleagues to support this amendment, let me remind my colleagues of the thoughts reflected by Supreme Court Justice John Paul Stevens who said, and I quote, "The flag uniquely symbolizes the ideas of liberty, equality and tolerance, ideas that Americans have passionately defended and debated throughout our history."

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. BILBRAY).

□ 1700

Mr. BILBRAY. Madam Speaker, I rise in support of the resolution, and, Madam Speaker, I would just ask my colleagues to remember that when the Constitution, including every amendment, was drafted the drafting fathers assumed they would be reasonable, commonsense applications of laws, and I would like to remind my colleagues that the first amendment existed, A, because of the fifth article which specifically says not only do the legislators of America have a right to amend the Constitution when they think there has been a mistake or there needs to be something clarified, but they have a responsibility to do it. In fact, the first amendment would not be here if the fifth article had not been acted on by the legislative body and other legislators.

Madam Speaker, I want to point out one thing, is that we are not talking about the first amendment being restricted. We are talking about, as we have talked about with other amendments, that reasonable commonsense restrictions are not a threat to our

constitutional freedoms, but they are the best safeguards that abuses and extremist approaches to our first amendment, second amendment, third amendment and every part of the Constitution is the greatest threat to those constitutional protections.

As Thomas Jefferson articulated quite clearly his intention for freedom of speech and the articulation of the first amendment, and that was to encourage the intellectual exchange in our society and not as just a protection to the individual who wanted to speak up, but to the protection of society so that they could get the intellectual exchange and contribute to the dialogue in our community.

Madam Speaker, the burning of the American flag is not being expressed as an intellectual exchange. It is just like somebody screaming fire in a movie house. It is someone trying to invoke an emotional response. Screaming fire happens to invoke fear. Burning the American flag is trying to invoke outrage and purposefully trying to invoke an emotional response. That emotional response, just like carnal pornography, is not protected under the first amendment. It has never been perceived to be protected. The intellectual exchange of disagreement about political activity is. But when we get to this emotional response I think we have got to be the reasonable, commonsense approach and say there are some things like burning the flag which do not encourage intellectual exchange in our society.

And I want to point out again that those who would not change the Constitution no matter what, we need sometimes to correct mistakes made by the Supreme Court. That is why our Constitution has Article V. I think we all agree, I think everyone agrees, that the Dred Scott decision was an absolute farce, it was wrong, it should not have been done. So the 14th amendment was passed to address that mistake, and I think history has proven that the 14th amendment overall was a good piece of legislation and was an amendment that was needed.

Madam Speaker, I think history is going to prove that this amendment to the Constitution is desperately needed to correct a wrong the Supreme Court has made just recently that they had not for 200 years.

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Madam Speaker, I thank the gentleman from Florida for the time and the opportunity to share today.

I join to support this proposal to protect our flag, the red, white and blue, the leading symbol of freedom not in just this country, but in the world. Much of the world, when they look at that flag, they know it means freedom, the greatest freedom in the world.

My grandfather was an immigrant from Sweden, and he taught me at a very young age to be so proud to be an

American because he was so proud to be an American, and he was so proud of the red, white and blue; it meant so much to him. We all know young men who have given it all. Today I want to mention three that left the small town I come from of Pleasantville, a thousand people. Three young men, Roger, Danny and Bruce, went to Vietnam at about the same time. The only one to return was my brother Bruce. Roger and Danny gave it all. They left their blood in the swamps of Vietnam, they left their life there, they gave everything. They gave their future to preserve that flag.

Four out of five Americans support this proposal. When do we get 80 percent to agree on anything? Forty-nine States have passed resolutions urging us to do this. When do we get 49 State governments of both parties to agree on anything?

This is the symbol of freedom. Should it not have a higher priority than money or mailboxes or other things that we are not allowed to desecrate?

As Justice Rehnquist noted, the flag is not simply another idea or point of view competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with almost mystical reverence. All should. In my view it is literally the fabric which binds us together, it is the symbol of who we are and the emblem we rally around when times get tough.

A businessman from my district, an immigrant from Iran, recently invited me to the opening of his new facility, and instead of cutting a ribbon he run up the American flag on the pole, and he allowed me to do that, and he said the reason I want that flag on my pole that looks right out my window of my office, because I understand the freedom in this country that I did not have in Iran, that I did not have when I was in Germany for a short time. I want to look at that flag and never forget. He said also outside my window at the house from my dining room table I want a flag that I can look out there in light hours and see the symbol of freedom that America has presented to the whole world.

Let us join those, the majority of Americans, the majority of States, who realize this is more than a flag. It is a symbol that embodies the bloodshed by Americans so that we can be free.

Mr. WATT of North Carolina. Madam Speaker, I yield 3½ minutes to the gentleman from Wisconsin (Mr. KIND).

(Mr. KIND asked and was given permission to revise and extend his remarks.)

Mr. KIND. Madam Speaker, I thank the gentleman for yielding this time to me.

Madam Speaker, if there is one bright shining star in our constitutional constellation, it is the first amendment of the Bill of Rights. That is the amendment that embodies the very essence upon which our democracy was founded because it stands for

the proposition that anyone in this country can stand up and criticize this government and its policies without fear of prosecution. But here we are yet again in the 106th Congress debating an amendment that would seriously weaken the first amendment and freedom of expression in this country.

Now I want to be clear. I am going to oppose this amendment, not because I condone or I do not feel repulsed by the senseless act of disrespect that is shown from time to time against one of the most cherished symbols of our country, the American flag, but because I recognize that our Constitution can be a pesky document sometimes. It challenges us, and it reminds us that this democracy of ours requires a lot of hard work. It was never meant to be easy. Our democracy rather is all about advanced citizenship. It is about the rights and liberties embodied in the Constitution that will put up a fight against what we believe and value most in our lives. Our Constitution is going to challenge us, and it is going to say, "Hey, you believe in freedom of expression or free speech in this country? Let's see how we react when someone steps up on their soap box at high noon and expresses at the top of their lungs ideas and beliefs that are completely contrary to ideas and beliefs that we have fought for and believed in during our entire lives."

That is what advanced citizenship is about. That is what the challenge in the Constitution is for us. And yes, the Supreme Court has ruled on numerous occasions that the repulsive disrespect and the idiotic act of desecrating the American flag is freedom of expression protected under the first amendment.

As former Supreme Court Justice Jackson said in the *Barnette* decision, and I quote:

"Freedom to differ cannot just be limited to those things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the very heart of the existing order."

There are few things that evoke more emotion, passion, pride or patriotism than the American flag; I recognize that. But if we pass this amendment today, where do we stop? Do we next try to prohibit the desecration of the Bible? Or the Koran? Or the Torah? Or perhaps even this book that I like to carry around in my pocket to remind me how difficult our democracy is? The Constitution? The Declaration of Independence? Or the very Bill of Rights itself? They too are symbols of our country that young men and women have fought for and died for.

Let us not go down that path today. We have done pretty well these passed 210 years without having to amend the Constitution to deal with a few individuals' act of senseless desecration.

There are other ways of dealing with content neutral acts. If someone steals my flag, they can be prosecuted for theft and trespassing. If they steal my

flag and burn it, they can be prosecuted for theft, trespass, criminal damage to property. If they burn it on a crowded subway station, they can also be prosecuted for inciting a riot, reckless endangerment, criminal damage to property and theft. There are other ways that this type of conduct can be prosecuted, but if someone buys a flag, goes down in their basement and because they do not like the government decides to desecrate it or burn it, are we going to obtain search warrants and arrest warrants to go in and arrest that person and prosecute them? We do not need to do that.

That is why I encourage my colleagues today, Madam Speaker, to oppose this amendment and not change 210 years of history in this country.

Mr. CANADY of Florida. Madam Speaker, I yield 1½ minutes to the gentleman from Montana (Mr. HILL).

Mr. HILL of Montana. Madam Speaker, I thank the gentleman for time, and, Madam Speaker, if colleagues would listen to the debate today, they would conclude that we are here to make a choice between defending the flag and defending the Constitution. In fact, the opposite is true. What we are here doing today is to try to reconcile our respect and our affection for the flag for our respect and our commitment to the Constitution.

I happen to disagree with the Supreme Court decision, but this process that we are following today does not do damage to the first amendment or to the Constitution. In fact, we are following a constitutional process.

I believe that we owe the blessings of liberty and freedom to those who served and sacrificed for this Nation, and as I attend the Memorial Day parade or Memorial Day service and I watch the tears streaming down the face of those veterans that are there, I know that our flag is more than a symbol. Somehow it is a link to the friends that they left on the battlefield or their friends who left parts of themselves on the battlefield.

I believe that the desecration of our flag is an insult. It is an insult to our Constitution, it is an insult to the liberty and freedom that is in it. It is an insult to the sacrifice, and it is an insult to the values that these men and women share: Honor and value, valor and courage.

Veterans groups. I think every major veteran group supports this. Forty-nine States have expressed to the Congress that we ought to act on this.

I would just urge my colleagues to support this amendment.

Mr. CANADY of Florida. Madam Speaker, I yield 2½ minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Madam Speaker, I rise in strong support of the legislation that we have here to have a constitutional amendment to prohibit the desecration of the United States flag.

I listened to some of the debate, I respect my colleagues, but this is not an issue about speech. What one can say is

anything they want in this country, but conduct is what we are focusing on.

I suppose if someone believes that they, in fact, are embodied with the right to burn this flag being displayed directly behind me, go ahead, but they have to get through me first, and when they do that, they really upset me. Now why do they upset me? I suppose that that statement written on a blackboard long ago when I was a college student at the Citadel that said those who serve their country on a distant battlefield see life in the dimension the protected may never know.

I have seen that flag on a distant battlefield. I understand what it represents, the physical embodiment of everything that is great about our Nation and perhaps not so great. Each of us individually when we see that flag, we get a tingle inside, and it is personal. We should do everything we can to protect that which is so vitally important to us as a Nation.

As I listened to some of my colleagues here, I am puzzled. I am puzzled because some of those who are in opposition to this amendment are also in opposition to our efforts to bring prayer back into school, our efforts to revitalize America to find its moral center. I do not know how those advocates want to see America. See, America, a little over 200 years young; are we going to be seen as some meteor that shined brightly but moved quickly across the span of world history?

□ 1715

Or, do we believe, as I do, if we permit the eyes of our mind to see a greater vision, I believe America has what it takes to reach deep, to revitalize itself, to find its center, its moral center, its proper balance, to seek the greater understanding, to have wise tolerance, and to respect each other for an enduring peace. As we do that, there are certain things that we have to respect in our society, and one that represents the physical embodiment of this Nation, and we are sensitive to liberty, is, in fact, Old Glory.

That is what this amendment is about. I respect the Committee on the Judiciary for bringing it to the floor, and I ask all of my colleagues to vote for this constitutional amendment.

Mr. WATT of North Carolina. Madam Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. DOYLE).

Mr. DOYLE. Madam Speaker, I can think of no greater symbol of freedom, no higher embodiment of American ideals than the flag of the United States of America. Since the Revolutionary War, our flag has served as a sacred reminder of who we are, what we stand for, and the dreams we hope to achieve. Therefore, I am pleased to rise today in support of H.J. Res. 33, which reaffirms our national commitment to protect our great flag. As in the 104th and 105th Congress, I am proud to say that I am once again a co-sponsor of H.J. Res. 33.

Madam Speaker, support for prohibiting the desecration of our flag is apparent not just from my constituents in the 18th District of Pennsylvania, but from 279 of my colleagues that have cosponsored this resolution. Our flag represents the very essence of what it means to be an American. By honoring and respecting our flag, we, in turn, honor and respect those who gave their lives and lost loved ones in the fight to protect this important symbol of America.

Under our great flag, many different cultures, beliefs, and ethnicities can find common ground and come together as one. It is this unit and freedom that is represented by our flag and forms the cornerstone of America. Throughout our history, the United States has called upon her husbands and wives, sons and daughters to travel to foreign lands and defend freedom and liberty at all costs. We owe it to them to ensure the American flag, the very symbol they fought and died to protect, is respected and cherished by all.

Prohibiting the desecration of the flag does not deny any individuals any freedoms or beliefs, but it does serve to strengthen our commitment to these very ideals. We should join together in this effort to preserve the symbol of our national unit.

Madam Speaker, I urge my colleagues to support the sacrifices of all of our Nation's citizens; support the very beliefs that our great country was founded upon, and support our great American flag.

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Madam Speaker, I thank the gentleman for yielding and for his leadership on this issue.

Madam Speaker, I rise in strong support of this constitutional amendment. Not all physical actions constitute free speech, and I am hardly alone in asserting that flag desecration is not free speech to be protected under the first amendment.

I believe that the States and Federal Government do have the power to protect the flag against acts of desecration and disgrace, wrote former Chief Justice Earl Warren. This view is shared by many past and present Justices of the U.S. Supreme Court across the ideological spectrum, including Hugo Black, Abe Fortas, Byron White, John Paul Stevens, Sandra Day O'Connor, and current Chief Justice William Rehnquist.

These eminent men and women have not taken a merely political stance based upon shallow assumptions. Rather, they rely upon well-established principles. "Surely one of the high purposes of a democratic society" wrote Rehnquist, "is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people, whether it be murder, embezzlement, pollution or flag-burning."

The flaw with the opposition's entire line of reasoning is their concept of

free speech. It is not and never has been the right to do anything you want to do any time you want to do it. Rather, it is a precious liberty founded in law; a freedom preserved by respect for the rights of others.

To say that society is not entitled to establish rules of behavior governing its members is either to abandon any meaningful definition of civilization, or to believe that civilization can survive without regard to the feelings or decent treatment of others. To burn a flag in front of a veteran or someone else who has put his or her life on the line for their country is a despicable act not deserving of protection.

It is well established that certain types of speech may be prevented under certain circumstances, including lewd, obscene, profane, libelous, insulting or fighting words. When it comes to actions, the limits may be even broader. That is where I will vote to put flag desecration, where 48 State legislatures thought it was when they passed laws prohibiting it.

This amendment does not in any way alter the first amendment. It simply corrects a misguided 5-to-4 court interpretation of that amendment. As Justice Rehnquist eloquently observed in concluding his dissent, "Uncritical extension of constitutional protection to the burning of the flag risks the frustration of the very purpose for which organized governments are instituted. The Government may conscript men into the Armed Forces where they must fight and perhaps die for the flag, but the government may not prohibit the public burning of the banner under which they fight."

Madam Speaker, I am proud to play a part in trying to right that wrong.

Mr. CANADY of Florida. Madam Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG).

(Mr. YOUNG of Florida asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. YOUNG of Florida. Madam Speaker, I rise in support of H.J. Res. 33.

Madam Speaker, the American flag is a symbol of our nation's freedom and liberty. Today we have an opportunity to protect that sacred symbol by approving House Joint Resolution 33, a Constitutional Amendment authorizing Congress to prohibit the physical desecration of the flag of the United States.

Our children learn the story of Francis Scott Key waiting throughout the night of September 13, 1813 in hopes that the British had not broken through the American defenses in Baltimore Harbor. At the break of dawn, Key's fears were quieted as he awoke to find that the flag, battered with holes ripped by cannon fire, was still flying proudly over Fort McHenry. Since the early part of this century, millions of visitors have flocked to the Smithsonian to view this huge flag and continue to do so today, nearly two hundred years after that fateful night in Baltimore. This national symbol is so important that it is now being carefully restored so that future generations of Ameri-

cans can reflect on our distinct and glorious heritage.

American service members have proudly marched, sailed, or flown under the flag in every conflict from the Mexican War to the recent Kosovo campaign. Just this past April, an American pilot was shot down deep in Serb territory while flying a mission during the war in Kosovo. Clutching a small American flag that he had kept tucked away in his flight suit, the pilot said it was the Stars and Stripes that gave him the hope, strength, and endurance that was required to withstand such an ordeal. For the benefit of my colleagues who may not have seen this story, I will include this story in the Congressional Record following my remarks.

The American Flag is a symbol of courage and bravery. We all recall the famous scene of our Marines in World War II raising Old Glory high above the blood stained beaches of Iwo Jima, signifying that America had just won one of this century's fiercest battles. Today, a sea of small flags quietly stands guard over the graves of these fallen heroes across our nation's cemeteries. These men and women fought and died to protect our nation and the sanctity of our flag, and that is precisely why we must approve this legislation today. We must pay tribute to this strength and pride of America and her people by honoring Old Glory.

Madam Speaker, the flag stands for much more than the 50 states and 13 original colonies. It stands for freedom, liberty, and democracy, ideals attributed to our great country by peoples from around the globe. The great naval hero John Paul Jones once wrote, "The Flag and I are twins . . . So long as we can float, we shall float together. If we must sink, we shall go down as one." Madam Speaker, today we must heed the words of John Paul Jones. May the flag always fly freely and proudly over our land, and may we revere and cherish it forever.

[From the St. Petersburg Times, April 7, 1999]

#### U.S. FLAG GAVE DOWNED PILOT HOPE WHILE AWAITING RESCUE

WASHINGTON—Crouched in a shallow culvert deep in Serb territory, one of the worst moments for the F-117A stealth fighter pilot downed over Yugoslavia came when barking search dogs drew within 30 feet of his hiding place.

The U.S. pilot reached for a folded American flag that he had tucked inside his flight suit next to his skin and said a silent prayer.

"It helped me not let go of hope," the pilot said in an interview released Tuesday by the *Air Force News*. "Hope gives you strength."

... It gives you endurance."

The dogs moved on, and after he spent six hours watching passing headlights on a nearby road, helicopters from the Air Force's 16th Special Operations Group picked him up, backed by support planes that swooped in for the rescue.

The Pentagon is withholding the pilot's name and details surrounding the crash of his F-117A and his rescue, although senior defense officials say a Serb missile probably shot the plane down March 27. It was the first F-117A to go down in combat.

The plane went down near Budjenovci, 35 miles northwest of the Yugoslav capital, Belgrade, and the pilot bailed out as "enormous" G-forces worked against him.

"I remember having to fight to get my hands to go down toward the (ejection seat) handgrips," he said. "I always strap in very

tightly, but because of the Intense G-forces, I was hanging in the straps and had to stretch to reach the handles."

He can't remember reaching the handle. "God took my hands and pulled," he said.

Although slightly disoriented, the pilot began radio contact with NATO forces as he parachuted toward a freshly plowed field 50 years from a road and rail intersection.

"I knew I was fairly deep into Serbian territory," he said, but he remembered his training. "It didn't panic me. I just got very busy doing what I needed to do."

After he hit the ground, the pilot buried a life raft and other survival equipment and spent the next six hours in a "hold-up site"—a shallow culvert 200 yards from his landing site. He made only infrequent radio contact with NATO rescuers in order to avoid detection by Serb forces who might be listening and racing to capture him.

"For the downed guy," he said, "it's very unsettling to not know what's going on. You're thinking, 'Do they know I'm here? Do they know my locations? Where are the assets and who is involved? What's the plan? Are they going to try to do this tonight?' It's the unknowns that are unsettling."

Passing cars and trucks might have been Serb military or police, but the pilot said he couldn't confirm they were looking for him, although search dogs came close.

"There was some activity at that intersection," he said. "Thank God no one actually saw me come down."

The pilot said he concentrated on staying low and on the American flag, which a fellow airman gave him as he strapped in for his mission at an air base in Aviano, Italy.

"Her giving that flag to me was saying, 'I'm giving this to you to give back to me when you get home,'" the pilot said. "For me, it was representative of all the people who I knew were praying. It was a piece of everyone and very comforting."

The airman who gave the pilot the U.S. flag was among the first to greet him when he returned to Aviano and he opened his flight suit to show her he still had it, the *Air Force News* reported. The airman's name also was withheld by the Pentagon.

So far, the pilot hasn't rejoined the NATO airstrikes, although he has asked his commanders to put him back into combat. "All I asked was that I be able to stay here for as long as possible before heading back" to the United States, he said.

The distinctive arrowhead-shaped F-117A, which has a 43-foot wingspan, is armed with laser-guided bombs and equipped with sophisticated navigation and attack systems. Stealth technology uses curved or angular surfaces to reduce radar reflections.

Mr. WATT of North Carolina. Madam Speaker, I yield 3½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the gentleman from Virginia for yielding me this time. I thank the ranking member, the gentleman from North Carolina (Mr. WATT), and the gentleman from Florida (Mr. CANADY), the chairman of the subcommittee.

One of the good things that has occurred in this debate is the recognition that no one's patriotism is diminished, and we would hope that that is a clear and salient point as we debate this constitutional issue.

Before I came to the floor, I thought for a moment where my patriotism

might have developed. Where did I first refine and understand what a glory it is to live and love and be free under the flag of the United States of America. I was reminded of going to school, and I am always encouraging my youngsters to make sure they pledge allegiance to the flag every day, as we do.

I would hope in every school our children are taught to pledge allegiance to the flag of the United States of America. It is symbolic of all of who we are, and it is symbolic of the fact that we stand as a people in this Nation, united, because of the freedom that is offered through those who have died, and the wisdom of our Founding Fathers who structured this fragile Nation on the premise of a democratic unit and on the premise of a Bill of Rights. Not an afterthought, but rather, something that was separate and set aside to reinforce the fact that we have freedom of expression.

Madam Speaker, I say to my colleagues, be reminded that we have lasted these 400 plus years not because we keep people from expressing themselves, but we have managed not to have coups and revolutions and deposing of leaders in an illegal and unconstitutional manner, because people believe they can petition the government. I go to my American Legion halls. I am supporting my good friend, Mr. Lee, who is going to put up a monument to World War II veterans in my district. We believe in exercising pride in our country.

But this amendment says something different, and I am not sure if it is because Gregory Lee Johnson burned a flag in Dallas, Texas, and I am from Houston, against protesting the Reagan administration policies. But the Supreme Court and the Court of Appeals indicated that the Texas law was wrong because freedom of expression is one that is guaranteed by the first amendment, and the intent of the burning of a flag is not to create a fire, but it is to inflame passions because I am so vigorously against policies of the government or otherwise.

So I thought for a moment, what made me a patriot. Does this amendment, my vote for or against it, make me stand taller than my neighbor? And I disagreed with myself; it does not. My vote against it does not diminish my patriotism, because I stand with the likes of Senator John Glenn, a hero who just these past months made us proud of his recent trip into space, and he acknowledged the fact that those who served in the Armed Forces risked their lives, believed it was our duty to defend our Nation, Senator Glenn said. I can tell my colleagues that in combat, I did not start thinking with the philosophy of our Nation, I put my life on the line. I fight for the flag because it symbolizes freedom.

Let us fight for the freedom of expression and not vote for this amendment; vote it down.

Madam Speaker, I stand to oppose this amendment to the Constitution to prohibit

physical desecration of the flag of the United States. This effort to amend the Constitution is an exercise in misjudgment and a waste of precious time. This is not the first time we have visited this issue, and I renew my opposition.

In 1984, in front of the Dallas City Hall, Gregory Lee Johnson burned an American flag as means of protest against Reagan administration policies. Johnson was tried and convicted under a Texas law outlawing flag desecration. He was sentenced to one year in jail and assessed a \$2,000 fine.

After the Texas Court of Criminal Appeals reversed the conviction, the case went to the Supreme Court. In a 5-to-4 decision, the Court held that Johnson's burning the flag was protected expression under the First Amendment. The Court found that Johnson's action fell into the category of expressive conduct and had a distinctively political nature.

The Court found that fact that an audience takes offense to certain ideas or expression does not justify prohibitions of speech. The Court also held that state officials did not have the authority to designate symbols to be used to communicate only limited sets of messages noting that "[i]f there is a bedrock principle underlying the First Amendment, it is that the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

The flag is a symbol of freedom. The red bars are tributes to the blood shed by the colonists who revolted against tyrannical oppression, including censorship and the inability to protest government policies. The proposed amendment slaps the faces of those marvelous patriots and decries the very freedoms for which the flag flies.

The intent of burning the flag is not to start a fire, but to inflame passions. That simple fact is why it is a form of expression protected by the First Amendment to our Constitution. And that is why it would be a contradiction of the Constitution itself to make this particular form of free speech a crime.

For those who say our brave men and women did not die in all the wars the past 200 years to end up have people free to burn our country's flag with impunity, I say those patriots died to uphold the notion of freedom, including freedom of speech and freedom of expression.

In 1990, Congress considered and rejected H.J. Res 350—a similar Amendment to the U.S. Constitution. Again in 1995 Congress considered the same amendment, (H.J. Res. 79), but did not get the necessary two third majority vote of the Senate.

The First Amendment implication of this resolution is most damaging. If passed, this would be the very first time in the history of our nation that we altered the Bill of Rights to place a severe limitation on the prized freedom of expression. This would be a dangerous precedent to set, because it would open the door to the erosion of our protected fundamental freedoms.

The Amendment as written is vague. It states that, "Congress shall have power to prohibit the physical desecration of the flag of the United States." What does the term desecration actually mean?

Is it the burning of the flag? Flag burning is the preferred means of disposing of the flag when it is old. The Court noted in Texas versus Johnson, that according to Congress it

is proper to burn the flag, "When it [the flag] is in such a condition that it is no longer a fitting emblem for display." What criteria would be used to determine when the flag is no longer fit for display and can thus be burned without penalty?

It is rare that a flag is ever burned in our country as a form of political speech or otherwise. From 1777 through 1989, only 45 incidents of flag burning were reported; since the 1989 flag decision, fewer than ten (10) flag burning incidents have been reported per year.

After all, the importance of our flag is not in its cloth, it is in what it symbolizes. The important thing about symbols is that they don't burn. No matter how much cloth goes up in flame, no matter how much hatred is hurled at it, our flag is still there.

American patriotism cannot be legislated, because the right to criticize the government is at the very heart of what it means to be an American. It was dissent that brought this country into being, and dissent has helped make us what we are today.

Madam Speaker, for these reasons, I urge my colleagues to vote "no" on H.J. Res. 33.

Mr. CANADY of Florida. Madam Speaker, I yield 1½ minutes to the gentleman from North Carolina (Mr. HAYES).

(Mr. HAYES asked and was given permission to revise and extend his remarks.)

Mr. HAYES. Madam Speaker, I thank my colleague for yielding me this time. I thank the gentleman from California (Mr. CUNNINGHAM) for bringing this to the floor of the House.

To put this issue in context, I was at Fort Bragg this Monday morning for the retirement ceremony for Sergeant Major David Henderson. To see over 500 of our finest young men and women of the 82nd Airborne assembled behind our colors, just put this whole issue in the proper perspective for me.

I support the resolution of the gentleman from California (Mr. CUNNINGHAM). Our Nation's history is replete with tales of courageous Americans who have ventured to foreign lands to defend the principles represented by the Stars and Stripes. These young patriots fought for our freedom and democracy, not because they were forced, but because they knew in their hearts that their cause was righteous, that making the ultimate sacrifice for freedom, liberty, and justice was worth the risk. We today, as a Congress, also have the opportunity to do in our hearts what we know is right.

The American flag is a symbol of more than nationhood. It is a symbol of the land we love, the home of the free and the brave. It is known around the world as a symbol for democracy and the noble ideals that characterize our democratic republic: Rights, responsibility, equal opportunity, and freedom. I, along with the vast majority of Americans, believe that Congress can afford our flag protections consistent with the first amendment. It is my duty, it is our duty to defend our flag from desecration and to protect

the honor of generations of courageous Americans who have fought and died for the freedoms that all Americans enjoy today.

Mr. CANADY of Florida. Madam Speaker, I yield 2½ minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Madam Speaker, I thank my colleague for yielding me this time. Let us remind our colleagues what we are voting on a joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

Madam Speaker, last night I was at a documentary over at the National Air and Space Museum; perhaps many other Members also went. The gentleman from Texas (Mr. SAM JOHNSON) was there, and I believe Pete Peterson, a former member, was there. The documentary was a film that took oral history from the prisoners of war who were in Vietnam, particularly Hanoi Hilton, and they took these oral histories that were given to the Air Force Academy and made them into the film, and it traced the background of the cadets, their training, these young cadets in the academies to their capture by the North Vietnamese where they were finally put into prison and they were tortured.

The whole depiction in this film would bring home the point that they had a sense of honor, and all of them together decided they would not go home unless the person who was most hurt went home first, and they would not go home unless ultimately, all of them went home at the same time, and they decided that when they returned to America, they would return with honor, and nothing less, nothing more.

So they were there under very difficult situations, being tortured, and at this point in their lives they had no hope perhaps of even coming home, and many of them died.

□ 1730

But the most poignant part of the whole film is when they were told they were going to be released. They put on their uniforms that the North Vietnamese gave them and they went out to the tarmac. Down came this large plane, a C-130, and it had a big American flag. As soon as they saw that American flag, the tears were in their eyes.

Once they got on board the aircraft they were all given a uniform, the uniform of their rank. And they looked at the buttons and they saw the symbol of the United States. Again, they broke down and that forced all of them to cry.

What I am saying to my colleagues today, would Members want to allow these prisoners of war to come home and to see our citizens desecrating the flag in front of these very noble individuals who spent their entire lives behind a door with no knob? In fact, near the end one of the prisoners said that

to him, he feels so much gratefulness and thanksgiving now that he is back in the United States, and every morning when he gets up and he realizes the doorknob is on his side, that is another day of freedom.

I urge support for this House Joint Resolution 33.

Mr. CANADY of Florida. Madam Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Madam Speaker, I thank my colleague, the gentleman from Florida, for yielding time to me and allowing me to speak on behalf of House Joint Resolution 33.

I am a strong supporter of everyone's First Amendment rights to the freedom of speech and expression, and I feel a hallowed symbol like our flag deserves to be respected and protected as a national treasure.

We do have limits. Court-made law restricts our freedom of speech, as limited by the example in lots of law school classes of not screaming fire in a crowded theater. That is court-made law that restricts my freedom of speech. What we are trying to do today with this amendment is by legislation to say there is something on the same level of yelling fire in a crowded theater unjustly. One of them is desecrating or burning the symbol of our country.

Those who desecrate our flag undermine the powerful symbol that thousands of Americans have died trying to defend, as my colleague, the gentleman from Florida, just talked about.

Our flag represents the principles our Nation was founded upon. I feel it should be afforded the maximum protection we can under legislative-made law, just like court-made law has protected people from being unjustly stomped by leaving a crowded theater when someone says, but wait a minute, I have a right to yell in a crowded theater. That is my freedom of speech. They do not have that, just like we need to protect our flag using the same idea, but this is legislative-made protections.

For these reasons, I am proud to be a cosponsor of House Joint Resolution 33, and I urge my colleagues to join me in support of this important resolution.

Mr. CANADY of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank the gentleman from North Carolina (Mr. WATT) for his leadership in the subcommittee and in this debate, and the spirit in which he has approached this issue. This is an issue which stirs emotions on both sides, but I believe today we have conducted a debate which for the most part focuses on the substance of what is at stake here.

I also want to thank the gentleman from Virginia (Mr. SCOTT) for his leadership in the past on this issue. I believe that he conducted the debate with the same spirit when he was the ranking member during the last session of the Congress. I appreciate that as well.

I think it is important that we acknowledge someone who is not here today. That is the gentleman from New York, Mr. Solomon, who has provided leadership in bringing forward this amendment during the last two Congresses. He brought a real passion to this issue which I think resulted in the success that we saw in the last two Congresses.

Finally, I want to acknowledge the great leadership that the gentleman from California (Mr. CUNNINGHAM) has provided. He has picked up the banner from the, no pun intended, from the former chairman of the Committee on Rules, and has provided outstanding leadership for this issue.

Madam Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Speaker, I yield the balance of my time to the gentleman from Virginia (Mr. SCOTT).

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Virginia (Mr. SCOTT) is recognized for 6 minutes.

Mr. SCOTT. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, this proposed amendment, if enacted by Congress and ratified, would reduce our rights of freedom of speech and expression embodied in the Bill of Rights for the first time in over 200 years. Those freedoms have made this country the envy of the world, and those freedoms have protected us from the kinds of upheavals over religious and political expressions that plague other countries even today.

But freedom is not a popularity contest. If that were the case, we would not need a Bill of Rights. Popular expression does not need protection. In fact, the First Amendment only comes into play when there is a need to protect unpopular religious or political expression.

I would ask my colleagues to consider the consequences before they start chipping away at the First Amendment. Some refer to this amendment as the anti-flag-burning amendment, but this amendment will not prohibit flag-burning. The truth is that even if this amendment is adopted, flag-burning will still be considered the proper way to honor the flag at ceremonies in order to properly dispose of a worn-out flag.

So this amendment has nothing to do with the act of burning the flag. It is the expression, the speech, which is the target of this amendment. Proponents of this amendment seek to prohibit activities and expressions with the flag when they disagree with those expressions. That is why the term "desecration" is used, not "burning." "Desecration" has religious connotations.

In other words, this amendment would give government officials the power to decide that one can burn the flag if he is saying something reverent in a ceremony, but he is a criminal if he burns the flag while saying something disrespectful at a protest. This is



absurd, and in direct contravention with the whole purpose of the First Amendment.

The government has no business deciding which political expressions are sufficiently reverent and which expressions are criminal because someone important got offended. That is why the practical effect of this amendment will be jailing of political protestors and no one else, because those who steal flags and destroy them, or those who provoke riots by burning a flag, can already be prosecuted under current law.

We have already seen the dangers of going down the path of patriotic legislation when in World War II we had laws compelling schoolchildren to pledge allegiance to the flag. We got so wrapped up in our drive to compel patriotism that we lost sight of the high ideals for which our flag stands, and passed laws that forced schoolchildren to salute and say a pledge to the flag, even if such acts violated their religious beliefs.

Fortunately for the American people, the Supreme Court put an end to that coercion with the landmark case of *West Virginia State Board of Education versus Barnett*. Obviously the majority in *Barnett*, Justice Jackson wrote, "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what is orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein."

Madam Speaker, unfortunately today we are poised and anxious to prescribe what is orthodox in politics and nationalism, even when there is no disagreement on this subject matter, and even when there is no evidence that flags are being burned in protest in any number sufficient to provoke an amendment to our Bill of Rights.

In fact, history reflects that the only time flag-burning occurs with any frequency is when these constitutional amendments are being considered.

Furthermore, Madam Speaker, the proscription required under this amendment is undefined. The text of the resolution states that "Congress shall have the power to prohibit the physical desecration of the flag of the United States."

This is the same language presented in the last Congress, and even after several hearings on the subject in the House and Senate, we have no idea of what will constitute desecration or what will constitute a flag.

At a hearing during the last Congress, at least one witness supporting the amendment agreed that the use of the flag in advertising could be considered desecration. How many car dealers or political candidates using flags in advertisements will be considered criminals, or will it depend on their political views?

Even wearing a flag tie could be an offense punishable by jail under this amendment, because the Federal flag code now considers the flag worn as ap-

parel as a violation. When is a flag a flag? Is a picture of a flag a flag? Is it a flag when the wrong numbers of Stars and Stripes are there before the flag is destroyed?

With so many unanswered questions and unintended consequences, I would hope that we would take a closer look at this amendment before we consider passing it. Otherwise, any criminal statute enacted under this amendment will be inherently vague and unworkable.

In conclusion, Madam Speaker, I would urge that this body be guided by the words of Justice Brennan when he wrote: "We do not consecrate the flag by punishing its desecration, for in so doing we dilute the freedom that this cherished emblem represents."

Madam Speaker, let us not betray the freedom our flag represents. I would urge everyone to stand up for the high ideals that the flag represents by opposing this attack on our Bill of Rights.

Mr. CANADY of Florida. Madam Speaker, I yield the balance of my time to the gentleman from California (Mr. CUNNINGHAM), the prime sponsor of this amendment, for the purpose of closing the general debate.

The SPEAKER pro tempore. The gentleman from California (Mr. CUNNINGHAM) is recognized for 3½ minutes.

Mr. CUNNINGHAM. Madam Speaker, I would like to thank not only the gentleman from Florida (Mr. CANADY) for his candor, but my colleagues on the other side as well for the way they have conducted themselves on this particular issue. I feel they are wrong, and that is why I am offering the amendment.

Mr. Pete Peterson was a good friend of mine. The gentleman from Kentucky (Mr. ROGERS) asked me to go to Vietnam and raise the American flag for the first time over Ho Chi Minh City. We used to call it Saigon. I refused the gentleman from Kentucky. It was too hard. Pete called me personally and said, DUKE, I was a prisoner for 6½ years. I need you to help me raise this flag over Vietnam.

Both of us cried because of what it means, not only to us but to the people that we buried, the people that we fought with, and to the people that believe from the deepest part of their heart that this symbol should be protected.

This is not a matter of freedom of speech. There is free speech. There is nothing in this amendment that prevents someone from speaking or writing or doing any of the other things, but just the radical burning of the symbol that we hold dear. It is despicable.

I had plane captains cry when their pilots did not come back overseas. My plane captain, Willy White, grabbed me by the arm one day and said, Lieutenant Cunningham, we got our MIG today, didn't we, because of his involvement in that team concept.

And we talk quite often about what we do, whether it is Kosovo, or what message we give to our men and women under arms. Can Members imagine what message we would send to our men and women if this goes down, the symbol that they fight for? It is more to them than just an inanimate object. It is very, very important.

The gentleman knows that there is not a political motive in my body on this particular issue. It is something I believe deeply, from the bottom of my heart, and feel emotionally about. We have over 282 cosponsors from both sides of the aisle on this. We expect to have well over 300 votes on this and pass it in the Senate. It is because the American people also feel this.

My colleagues talk about the Supreme Court and their decisions. Look at history. Over 200 years of Supreme Courts have held that 48 States could rule that desecration of a flag is wrong, and have penalties. Only one Supreme Court in the history of the United States in 1989, by a narrow vote of one vote, changed 200 years of history.

The American people are saying that is wrong; that we believe that this flag, this dimension, the support of unity for all the things that both sides of the aisle fight for, is very important.

□ 1745

I would ask, I would beg my colleagues to vote for this amendment.

Mr. DINGELL. Madam Speaker, I rise today to express my outrage at a deplorable and despicable act which disgraces the honor of our country—the burning of the United States flag. Behind the Speaker hangs our flag. It is the most beautiful of all flags, with colors of red, white, and blue, carrying on its face the great heraldic story of 50 states descended from the original 13 colonies. I love it. I revere it. And I have proudly served it in war and peace.

However, today I rise in opposition to H.J. Res. 33, the flag amendment, which for the first time in over 200 years would amend our Bill of Rights.

Madam Speaker, throughout our history, millions of Americans have served under this flag during wartime; some have sacrificed their lives for what this flag stands for: our unity, our freedom, our tradition, and the glory of our country. I have proudly served under our glorious flag in the Army of the United States during wartime, as a private citizen, and as an elected public official. And like many of my colleagues, I treasure this flag and fully understand the deep emotions it invokes.

But while our flag may symbolize all that is great about our country, I swore an oath to uphold the great document which defines our country. The Constitution of the United States is not as visible as is our wonderful flag, and oftentimes we forget the glory and majesty of this magnificent document—our most fundamental law and rule of order; the document which defines our rights, liberties; and the structure of our government. Written in a few short weeks and months in 1787, it created a more perfect framework for government and unity and defined the rights of the people in this great republic.

The principles spelled out in this document define how an American is different from a citizen of any other nation in the world. And it is



because of my firm belief in these principles—the same principles I swore an oath to uphold—that I must oppose this amendment. Because if this amendment is adopted, it will be the first time in the entire history of the United States that we have cut back on our liberties as Americans as defined in the Bill of Rights.

Prior to the time the Supreme Court spoke on this matter, and defined acts of physical desecration to the flag under certain conditions as acts of free speech protected by the Constitution, I would have happily supported legislation which would protect the flag. While I have reservations about the propriety of these decisions, the Supreme Court is, under our great Constitution, empowered to define Constitutional rights and to assure the protection of all the rights of free citizens in the United States.

Today, we are forced to make a difficult decision. There is regrettably enormous political pressure for us to constrain rights set forth in the Constitution to protect the symbol of this nation. This vote is not a litmus test of one's patriotism. What we are choosing today is between the symbol of our country and the soul of our country.

When I vote today, I will vote to support and defend the Constitution in all its majesty and glory, recognizing that to defile or dishonor the flag is a great wrong; but recognizing that the defense of the Constitution, and the rights guaranteed under it, is the ultimate responsibility of every American.

I urge my colleagues to honor our flag by honoring a greater treasure to Americans, our Constitution. Vote down this bill.

Mr. FRELINGHUYSEN. Madam Speaker, I rise today to support our American Flag and as an original cosponsor of House Joint Resolution 33 which will protect our most cherished national symbol.

The American Flag is probably the most recognizable symbol in the world. Wherever it stands, it represents freedom. Millions of Americans who served our nation in war have carried that flag into battle. They have been killed or injured just for wearing it on their uniform because it represents the most feared power known to tyranny and that is liberty. Where there is liberty there is hope. And hope extinguishes the darkness of hatred, fear and oppression.

America is not a perfect nation, but to the world our flag represents that which is right and to Americans it represents what Chief Justice Charles Evans Hughes referred to as our "national unity, our national endeavor, our national aspiration." It is a remembrance of past struggles in which we have persevered to remain as one nation under God, indivisible, with liberty and justice for all. Those who would desecrate our flag and all it represents have no respect for the brave men and women for whom the ideals and honor of this nation were dearer than life.

Madam Speaker, this bill will not make individuals who desecrate our flag love our nation and those who sacrificed to secure the freedoms we have today. But it will give Americans a unified voice in decrying these reprehensible acts.

Mr. WELDON of Florida. Madam Speaker, today I rise in strong support of H.J. Res. 33, the Flag Desecration Constitutional Amendment.

Our nation's flag is a sacred symbol of our country's liberty that so many men and women

in uniform have fought and died to defend. As the symbol of that liberty, the flag deserves, better yet, demands our greatest respect. Additionally, the flag of the United States of America is a symbol of the perseverance of American values. It is greatly disturbing that it is sometimes burned or otherwise desecrated as an act of protest. It is disgraceful that some individuals would desecrate the flag that our nation's veterans have fought so valiantly to defend. It is also disheartening that we would even have to debate this issue on the floor of the House of Representatives.

Madam Speaker, as we draw near to the new millennium, it is important that we finally enact protections for our flag. I believe that this Congress is committed to doing everything we can to ensure the flag that signifies the very liberties and responsibilities that we hold dear.

Mr. RILEY. Madam Speaker, I rise today in strong support of this amendment. Our flag represents the best qualities America has to offer—freedom, equal opportunity, and religious tolerance. Furthermore, it serves as a symbol of the blood, sweat, hard work and sacrifices many before us have made. We owe so much of what we have and who we are to those who have fought to protect our country.

It disturbs me every time I hear of attacks on our Nation's symbol of freedom. An attack on the flag is an attack on our heritage and everything our ancestors fought for. Thousands of people have lost their lives protecting our flag and the liberties we enjoy today.

Madam Speaker, we should not tolerate flag desecration and I urge your support of this very important amendment.

Mr. HASTINGS of Florida. Madam Speaker, I rise today in strong opposition to House Joint Resolution 33. I firmly believe that passing this bill would abandon the very values and principles upon which this country was founded.

Make no mistake, I deplore the desecration of the flag. The flag is a symbol of our country and a reminder of our great heritage; and I find it unfortunate that a few individuals choose to desecrate that which we hold so dear. However, it is because of my love for the flag and the country for which it stands that, unfortunately, I have no choice but to oppose this well-intentioned yet misguided legislation.

Our country was founded on certain principles. Chief among these principles are freedom of speech and expression. These freedoms were included in the Bill of Rights because the Founding Fathers took deliberate steps to avoid creating a country in which individuals' civil liberties could be abridged by the government. Yet that is exactly what this amendment would do. It begins a dangerous trend in which the government can decide which ideas are legal and which must be suppressed.

I believe that the true test of a nation's commitment to freedom of expression is shown through its willingness to protect ideas which are unpopular, such as flag desecration. As Supreme Court Justice Oliver Wendell Holmes wrote in 1929, it is an imperative principle of our Constitution that it protects not just freedom for thought and expression we agree with, but "freedom for the thoughts we hate."

Ultimately, we must remember that it is not the flag we honor, but rather, the principles it embodies. To restrict peoples' means of ex-

pression would do nothing but abandon those principles—and to destroy these principles would be a far greater travesty than to destroy its symbol. Indeed, it would render the symbol meaningless.

As I said, I admire the well-intentioned thoughts of those who support the flag desecration amendment, however, I believe their efforts are misdirected. It is essential that we maintain our country's ideals including those which allow for differences of opinion, at whatever the cost; and I ask my colleagues to join me in opposing this bill that violates the ideals and principles of our country.

Mr. BARRETT of Nebraska. Madam Speaker, I am proud to rise today in strong support for H.J. Res. 33, the Flag Desecration Constitutional Amendment.

Our flag was adopted as a sign of independence and as a national identity by the 13 original colonies. And though our country has changed significantly since that time, the flag still represents the same ideals.

It symbolizes freedom, equal opportunity, religious tolerance and goodwill for people of the world. It has represented our nation in peace, as well as in war; and it symbolizes our nation's presence around the world.

When I walk down the halls of our congressional office buildings, it strikes me that the flag hangs everywhere. No matter what our differences—and there are many—most members of Congress have a flag outside their office door. The flag unifies us in the way no other symbol does. It expresses our love for our country and tradition. It represents democracy, and it expresses our respect for those who died defending values that we, as Americans, hold dear.

Because of our deep reverence for the American flag, there are those who make extreme statements against the government and its policies by desecrating the flag. Unfortunately, the Supreme Court has ruled this disrespectful act is protected by the First Amendment of the Constitution.

Now, I have the utmost love and respect for our First Amendment rights—our freedom of speech is the most important right we have. But we can't allow the U.S. flag to be desecrated as a form of political expression. These acts are not protected speech, they are violent and destructive conduct that should insult every American.

The flag isn't just another piece of cloth. Allowing protesters to desecrate the flag is a slap in the face to brave men and women who laid down their lives in the name of U.S. flag and for all it stands.

Mr. PORTER. Madam Speaker, the first amendment to the Constitution, the supreme law of our land, proclaims that Congress shall make no law abridging the freedom of speech or of the press. The principle of free speech in our Constitution is an absolute, without proviso or exception.

The citizens of the newly freed Colonies had lived through the tyranny of a repressive government that censored the press and silenced those who would speak out to criticize it. They wanted to make certain no such government would arise in their new land of freedom. The first amendment, as with all ten amendments of the Bill of Rights, was a specific limitation on the power of government.

Throughout the 210-year history of the Constitution, not one word of the Bill of Rights has ever been altered. However, the sponsors of

this amendment today, for the first time in our Nation's history, would cut back on the first amendment's guarantee of freedom of expression. I submit that only the most dangerous of acts of the existence of our Nation could possibly be of sufficient importance to require us to qualify the principle of free speech which lies at the bedrock of our free society.

The dangerous act that threatens America, they claim, is the desecration of the flag in protest or criticism of our Government. Now, Mr. Speaker, desecration of the flag is abhorrent to me, as to anyone else. It is offensive in the extreme to all Americans. But as I have said before, it is hardly an act that threatens our existence as a nation.

Such an act, Mr. Speaker, is in fact exactly the kind of expression our Founders intended to protect. They themselves had torn down the British flag in protest. Our founders' greatest fear was of a central government so powerful that such individual protests and criticisms could be silenced.

No, Mr. Speaker, we are not threatened as a nation by the desecration of our flag. Rather, our tolerance of this act reaffirms our commitment to free speech and to the supremacy of individual expression over governmental power, which is the essence of our history and the very essence of our values.

Mr. Speaker, this issue was addressed in a very eloquent and impassioned letter to the editor of the Chicago Sun-Times written by one of my constituents, David Haas of Grayslake, IL, a teacher at Waukegan High School. I believe that every member of this House should read Mr. Haas's words before casting their vote on this measure, and I include it for the RECORD.

[From the Chicago Sun-Times, June 23, 1999]  
FREEDOM UP IN FLAMES WITH FLAG BURNING  
LAW

(By David Haas)

When I fought in the Vietnam War, I never dreamed that I would have to fight to defend the Bill of Rights when I got home. But that is what I must do now because Congress is just a few votes shy of amending the Constitution to outlaw the desecration of the American flag.

As a proud veteran, I strongly oppose this amendment, and it grieves me that I must caution our senators and representatives not to tamper with a basic freedom spelled out in the Bill of Rights.

To prohibit the symbolic act of flag burning would be an unnecessary abridgement of that freedom, an unwitting mockery of our most essential principles. We must not amend our Bill of Rights for the first time in our nation's history in an attempt to force patriotism on those who disagree with us.

I served my country for more than 21 years, both on active duty and as a naval reservist. I continue to serve my country as a teacher at Waukegan High School. My continual message to my students is that they must never give up on freedom; that their collective voices can make a difference, and will be heard and listened to, if only they will speak; and that even though they may be immigrants, minorities or poor, the Bill of Rights applies to them as much as to me.

My quiet patriotism comes from deep within, and always has taken the form of action, not displays, and I do not believe that displays of patriotism should be forced upon others. Such force never can lead to heartfelt, active patriotism, but only to weak and dishonest conformity. Is this what we want? It is where we are headed with this proposed amendment.

Like most Americans, I am deeply offended to see someone burn or trample the Stars and Stripes. I love my country, and proudly salute the flag. But I did not serve my country to protect a symbol of freedom. I served to protect our freedoms.

This constitutional amendment would do us all a grave and irreparable injustice by chipping away at the right of free speech. Those who support the amendment intend to protect the flag, but they would do so at too great a cost: the loss of our right to dissent, something the Supreme Court consistently has reaffirmed through the years.

This amendment is a clear case of good intentions gone awry. If the flag were to become sacred, who would monitor its use? A flag commission? The flag police? And what would the act of desecration entail—putting flag in paintings or clothes, or flying the flag upside down?

The flag is not a sacred object. To regard it as such would be an affront to all religious people. Ultimately, we must be able to realize that when a flag goes up in smoke, only cloth is burned. The freedom that flag symbolizes can only glow brighter from such an event. Our principles will continue to thrive in the heart.

Mr. STUMP. Madam Speaker, I rise in strong support of this resolution to protect the American flag.

This resolution does nothing to infringe upon the First Amendment's protection of free speech.

Speech is supposed to communicate something.

When a protester burns a flag in public, he knows he's doing it to insult and provoke, not to communicate.

Citizens of this great Nation enjoy more rights than any other on Earth.

But no right is absolute.

Every society has an obligation to set standards of conduct.

I support this resolution because it allows standards to be put in place while protecting our rights as individual Americans.

It merely grants Congress the ability to protect our Nation's most cherished symbol—the American flag.

The gentleman from Illinois is once again bringing legislation to the House floor based upon conviction and heartfelt sincerity.

Many American patriots have suffered and died to protect the flag.

As a fellow combat veteran of World War II, I commend his efforts and urge all my colleagues to support the resolution.

Every society, especially one changing as rapidly as ours, has to have some common bond, some symbol of unity. There's something about the human heart that demands such symbols for its affections.

For Americans, that symbol has always been "Old Glory," perhaps the most recognizable national flag in the world. I don't think any other flag, or object of any kind, triggers such immediate associations as the Stars and Stripes. No other nation, to my knowledge honors its flag with a holiday as we do on Flag Day, June 14.

No mere abstraction like "freedom" or "rights" or "pursuit of happiness" can possibly have the same effect. People need something they can see or touch or feel. They need something real. The U.S. flag has been a heartfelt reality since it received its first salute when Captain John Paul Jones sailed into a French harbor.

The same emotion that inspired Francis Scott Key one war later to compose the na-

tional anthem has inspired generations of Americans. The sight of the U.S. flag has inspired tears of joy from Rome to Paris to Manila to Kuwait City, and every other city American troops have liberated.

From that day to this, our history and public life have been filled with sincere love for the flag. Many Americans are still moved when they see the old '40's film "Yankee Doodle Dandy," and James Cagney's performance as George M. Cohan singing "It's a Grand Old Flag." But one of the most valid images of that decade's central event—World War II—is the raising of the American flag on Mt. Suribachi by U.S. Marines.

Astronaut Neil Armstrong thrilled a nation when he planted the flag on the moon in 1969. Eleven years later in Lake Placid, New York, a proud goalie wrapped himself in the flag after the U.S. hockey team upset the once invincible Russians at the Winter Olympics.

A few years ago, the Phoenix Art Museum exhibited "Old Glory: the American Flag in Contemporary Art," a display veterans and most Americans found offensive. One of these "works of art" was the American flag used as a doormat. This was to much for 11-year-old Fabian Montoya, who picked the doormat up and handed it too his father.

"I don't want anyone stepping on it," he said.

But my favorite is the story of Mike Christian, a naval aviator held captive in the "Hanoi Hilton" during the Vietnam War. It's a story told best by Leo K. Thorsness, a Congressional Medal of Honor winner whose condensed speech was published a year ago in John McCaslin's "Inside the Beltway" column in the Washington Times. It's worth quoting in full.

You've probably seen the bumper sticker somewhere along the road. It depicts an American flag, accompanied by the words "These colors don't run." I'm always glad to see this because it reminds me of an incident from my confinement in North Vietnam at the Hoa Lo POW Camp, or the "Hanoi Hilton," as it became known.

Then a major in the U.S. Air Force, I had been captured and imprisoned from 1967 to 1973. Our treatment was frequently brutal. After three years, however, the beatings and torture became less frequent. During the last year, we were allowed outside most days for a couple of minutes to bathe. We showered by drawing water from a concrete tank with a homemade bucket.

One day, as we all stood by the tank, stripped of our clothes, a young naval pilot named Mike Christian found the remnants of a handkerchief in a gutter that ran under the prison wall. Mike managed to sneak the grimy rag into our cell and began fashioning it into a flag. Over time, we all loaned him a little soap, and he spent days cleaning the material. We helped by scrounging and stealing bits and pieces of anything he could use.

At night, under his mosquito net, Mike worked on the flag. He made red and blue from ground-up roof tiles and tiny amounts of ink and painted the colors onto the cloth with watery rice glue. Using thread from his own blanket and a homemade bamboo needle, he sewed on the stars.

Early in the morning a few days later, when the guards were not alert, he whispered loudly from the back of our cell, "Hey gang, look here!" He proudly held up this tattered piece of cloth, waving it, as if in a breeze. If you used your imagination, you could tell it was supposed to be an American flag. When he raised that smudgy fabric, we automatically stood straight and saluted, our chests

puffing out, and more than a few eyes had tears.

About once a week the guards would strip us, run us outside and go through our clothing. During one of those shakedowns, they found Mike's flag. We all knew what would happen. That night they came for him. Night interrogations were always the worst. They opened the cell door and pulled Mike out. We could hear the beginning of the torture before they even had him in the torture cell. The beat him most of the night. About daylight they pushed what was left of him back through the cell door. He was badly broken. Even his voice was gone.

Within two weeks, despite the danger, Mike scrounged another piece of cloth and began making another flag. The Stars and Stripes, our national symbol, was worth the sacrifice for him. Now, whenever I see the flag, I think of Mike and the morning he first waved that tattered emblem of a nation. It was then, thousands of miles from home in a lonely prison cell, that he showed us what it is to be truly free.

Such contemporary stories convince me that Americans have not lost their love for the flag, and never will. They convince me that the overwhelming majority of patriotic Americans support our Constitutional amendment to protect the flag, the symbol of our national unity. They convince me that the same majority recognizes flag desecration to be a physical act of contempt, not a protected exercise in free speech. A nation with confidence in its own institutions and values will not hesitate to say, "this you shall not do."

Flag Day is dedicated to heroes and patriots like Fabian Montoya and Mike Christian. Like them, we should recall the things the flag represents. If we continue to do that on Flag Day and every other day, "Long may she wave" will never be a mere slogan. It will be a prayer etched in the hearts of every American and every lover of freedom.

And stitched into the very fabric of the United States Flag.

Mr. MURTHA. Madam Speaker, I'm proud to have joined with Congressman CUNNINGHAM in leading the effort in the 106th Congress to pass a Constitutional amendment to protect the American Flag from desecration.

Our Flag is the symbol of our great nation—of who we are and how we got here. It is the symbol of hard-won freedom, democracy and individual rights. It is the symbol of our patriotism. It is the symbol that binds us together in our hearts and inspires us to strive to protect and preserve this land, this country and each other. It is an enduring symbol that unites generations. It is the embodiment of our struggles of the past, our strength in the present and our hopes for the future. It is the symbol of freedom.

Each of us associates a memory with our flag. We solemnly pledge allegiance to it as children with our hands on our hearts. It took our breath away to watch the astronauts place it on the moon. It flies proudly over the doors of our homes, the rooftops of our workplaces, and in our parades on Memorial Day and the Fourth of July. It has given many Veterans the will to persevere in conflicts against oppression around the world.

An American pilot was recently shot down in Yugoslavia and spent time hiding in hostile territory to avoid capture. After he was rescued, he was asked what he kept his thoughts focused on during hiding. His answer: the American Flag.

The debate over this amendment is a debate about the sanctity of America's ideals

and of the sacrifices made by countless millions of fellow citizens for this country to become and remain free and strong and united under one Flag. It is not a debate about free speech. Burning and destruction of the flag is not speech. It is an act. However, it does inflict insult—insult that strikes at the very core of who we are as Americans and why so many of us fought—and many died—for this country. And many a lesser insult is not wholly protected under the First Amendment—we have laws against libel, slander, copyright infringement, and "fighting words" which pass muster under the First Amendment test.

We should hold our Flag sacred in our Constitution. It is the symbol of what we are, who we are, and all we have been through and fought against to get where we are together as a strong, free and united nation. I urge my Colleagues to support this Constitutional amendment today.

The SPEAKER pro tempore (Mrs. EMERSON). All time for debate has expired.

Pursuant to the order of the House, further consideration of the joint resolution will be postponed until the following legislative day.

#### APPOINTMENT AS MEMBERS TO INTERNATIONAL FINANCIAL INSTITUTION ADVISORY COMMISSION

The SPEAKER pro tempore. Without objection, and pursuant to 22 U.S.C. 262r, the Chair announces the Speaker's appointment of the following Members on the part of the House to the International Financial Institution Advisory Commission:

Mr. CAMPBELL of California,  
Mr. Allan H. Meltzer of Pennsylvania.

#### ANNUAL REPORT OF THE NUCLEAR REGULATORY COMMISSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce:

##### *To the Congress of the United States:*

As required by section 307(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5877(c)), I transmit herewith the Annual Report of the United States Nuclear Regulatory Commission, which covers activities that occurred in fiscal year 1997.

WILLIAM J. CLINTON.  
THE WHITE HOUSE, June 23, 1999.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

woman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

(Ms. CARSON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. ALLEN) is recognized for 5 minutes.

(Mr. ALLEN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### RESTORE PRAYER AND BIBLE READING TO THE SCHOOLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Madam Speaker, one of my constituents, Ernest Chase, of Englewood, Tennessee, has just sent me a cartoon showing two students standing outside of Columbine High School.

The drawing shows a young girl saying, "Why didn't God stop the shooting?" A young boy then replies, "How could he? He's not allowed in school anymore."

I know that God is everywhere and omnipresent. So I realize the cartoon is not theologically correct. However, it does make a very important point.

I know that this Congress will not put prayer and Bible reading back in the schools, but I believe we should. The problems of our children and our schools have grown much worse since we took prayer and Bible reading out.

I know that when we had prayer and Bible reading in the schools, most kids did not pay attention and were probably thinking about other things. But one could never know which young people had come to school hurting that morning, due to a family squabble, a health problem, loss of a loved one, or something else.